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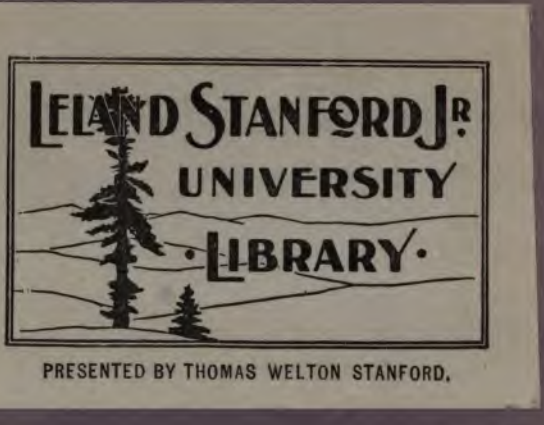
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AUSTRALIANA.

TO THE SETTLERS OF VAN DIEMEN'S LAND.

GENTLEMEN,

With this Notice you will receive my Book on Convict Management;—and I intreat you to give it a calm consideration, as much for your own sake, as for mine.

The question in England is not, as here, whether the existing System shall be continued, or *improved*,—but whether Transportation as a Secondary Punishment shall be continued, or *abolished;* and the majority of the country, headed by a Committee of the House of Commons, is in favor of the latter alternative. Will you, then, strengthen this party, by adhering pertinaciously to what no man on principle, however he may on expediency, can justify in what exists?—or will you join with me in shewing that Transportation can be so improved, on undoubted principle, as to be made unexceptionable as a National Punishment? That is the real question now before you.

A. MACONOCHIE.

THOUGHTS

ON

CONVICT MANAGEMENT,

AND

OTHER SUBJECTS CONNECTED

WITH THE

AUSTRALIAN PENAL COLONIES.

BY

CAPTAIN MACONOCHIE, R. N., K.H.

" Quant à la manière de juger, elle diffère dans chaque individu. Mais si on rapporte tout aù bonheur du Genre Humain, on est sûr de juger comme Dieu agit. C'est sur cette raison generale de l' Univers que vous devons règler nos raisons particulières, comme nous règlons nos montres sur le soleil."—SAINT PIERRE.

HOBART TOWN:

PRINTED BY J. C. MACDOUGALL,

COLLINS STREET.

1838.

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PREFACE.

THE Papers in this Volume are distributed into two Parts. Those in the first, relate exclusively to Convict Management; those in the second are more miscellaneous. But the object of all is nearly the same, viz. to urge the superiority of *moral influence* to *physical coercion*, where intelligent beings are to be controuled or guided; —or, in other words, to recommend that it be sought to restrain men rather by making virtue easy, and good conduct pleasant, than merely by making vice difficult, and misconduct painful. To the error of reversing this process altogether,—making virtue almost impossible, vice easy, temptation irresistible,* concealment consequently the chief object on one side, and mere

* Labour in domestic service, without wages, and in the midst of luxuries which cannot be indulged in *honestly*, would seem contrived expressly to make petty crime inevitable;—and for its practical effects see top of p. 39.

detection and punishment on the other,—I attribute almost exclusively the painful results of the existing system of Convict Management,—the setting of which in a distinct light is thus another necessary purpose of my work.

In preparing it I have studied to be frank and explicit, but not calumnious. I have not shrunk from exposing a single evil principle that came in my way; but on the other hand I have most anxiously sought to avoid giving personal offence; and if I have not succeeded, the fault is in the subject.

None of the Papers are intended as complete treatises on the points to which they relate; they merely contain hints on which treatises may be based. They bear obvious marks—(perhaps too obvious)—of having been written at distant intervals, as unconnected circumstances engaged my attention;—and certainly nothing was farther from my thoughts, when I first began them, than so far to extend, and, as it were, weave them into a system. But in the close contemplation of such a subject, especially where its details are immediately present, it is impossible but that the feelings should become speedily interested, as well as the understanding; and measure, as well as method are then,

almost unavoidably, in many cases sacrificed to the desire of producing conviction and effect.

One subject, which usually occupies a prominent place in all works bearing on Transportation or Convict Management, will be found here very slightly noticed,—I mean the effect which different systems may be supposed to have in deterring from crime in England. I think that the importance of this aspect of them is usually very much over-rated. I do not believe that the *fear* of punishment, or any form of physical damage, is in any case a *strong* sentiment in the human mind. We do not see that the *fear* of life and limb, the loss and fracture of which are the *punishments*, by the laws of nature, of rash exposure, makes men generally cautious;—for, on the contrary, many occupations, and even not a few amusements, derive their zest from the danger which they involve. The *fear* of sickness also does not make the mass of mankind study their diet or habits;—and the *fear* of future punishments, of which we are all more regularly reminded than of any other fear, is not, at the same time, in healthy minds a prominent, or very influential consideration. I am persuaded, then, that there is a mistake in this portion of Penal Science,

involving even a degree of injustice, and conflicting with the principle that our duties to Society are the aggregate of our duties to *every* individual in it ;*—to which mistake, I think,

* When a man breaks his leg, however rashly or carelessly, we have him into an hospital, and cure him as speedily as possible, without ever thinking of modifying his treatment so as to make his case a warning to others. *We here think of the individual, not of society.* But when a poor fellow-creature becomes morally dislocated, however imperious the circumstances to which he may have fallen a victim, we abandon all thought of his welfare, and seek only to make "an example" of him. "*We think of society, not of the individual.*" I am persuaded that the more closely and critically we examine this principle, and whether abstractly, analogically, or above all Christianly and politically, the more doubtful will it appear ;—yet it lies at the root of nearly all our Penal Institutions, and the reasoning on which they are founded.

Moderate, certain, duly proportioned, and judicious punishment, —enough, if accompanied by moral and religious instruction, to produce penitence, but not resistance,—and especially if followed by circumstances moderately favorable to further improvement, not extravagantly opposed to them,—such a punishment must confer the greatest benefit on any criminal ; and Society will also derive benefit from it, in a small degree from the example which it will set of preliminary suffering consequent on crime, in a much greater degree from the example of its successful application, and directly also by the exchange of a bad citizen for a good one. And these are legitimate social benefits, because based on a benefit, not an injury, conferred on an individual member of the society obtaining them. But to believe that Sin may involve everlasting perdition, and at the same time calmly and deliberately to sentence an unhappy wretch, already entangled in it, to an increasing and ever increasing load of it,—or even to be indifferent whether this be the result of our infliction or not,—appears to me a stretch of selfish policy almost without any excuse whatever. There can be no Justice in it, for there is no proportion between the injury inflicted and the object aimed at;—Reason does not therefore appear to support it;—and Religion seems to me expressly to forbid it. We commit a most grievous *certain* wrong;—and the good we aim at is not only most *uncertain*, but, as it appears to me, while we continue, as now, to hold out the example of suffering only, without any success from its application, altogether *unattainable*. The pride of daring our worst inflictions, and of remaining

may be attributed not only much of the harshness of our Penal Institutions, but a great deal also of their ill success;—and I have briefly explained these views, in the Note, and also pp. 113-18. But elsewhere I have rather founded on them in my own mind while following my other reasoning, than brought them prominently forward. And I may thus appear to many to have written throughout too colonially, —too exclusively with an eye to the interests of these Colonies; which may be another of the faults which, as a work of controversy addressed chiefly to the English public, my book will undoubtedly be found to possess. It proceeds, in some degree, from the circumstances out of which it has originated.

I have added the last two Papers to the others, partly because the first has not been before printed at all, the second only in the most fugitive manner, and I wish to preserve both;—but much more, because the princi-

obdurate even if subjected to them, will always outweigh the *fear* even of the cowardly, who generally shrink from being thought afraid; and the more sturdy and enterprising, I have little doubt, are often animated to persevere in evil courses by the very thought that we attempt to *frighten* them from them.

On this head I am delighted to quote from Dr. Channing, of Boston. But as the passage is too long for insertion here, I have placed it in the Appendix, p. 214.

ples which I seek to establish in the management of Prisoners appear to me to acquire additional force when shewn not to be isolated positions, but to concur with the wants, tendencies, and opinions of the age on other points also. Both subjects are moreover, of great interest in themselves;—both will gain by discussion;—and on one at least I am enabled to add important testimony to my own. To much other correspondence I am in like manner indebted, and I beg to offer my warmest thanks to the friends who have favored me with the whole. I am under the deepest obligations to them. They have encouraged me by their concurrence to proceed, when I have sometimes hesitated: and to the kindness and frankness with which they have expressed their opinions on the most important points I owe much information, and many valuable hints.

I have, indeed, in every way been most favorably placed for observation; and I shall venture to add that I have diligently and conscientiously improved my opportunities. I do not think that there is a single statement in the volume that is not susceptible of direct proof;—nor is there a single conclusion in it that does not appear, to myself at least, to flow

necessarily from its premises. I believe, in consequence, that I may have expressed some of these last too earnestly and confidently;—but no one at a distance can easily conceive how difficult it is to discuss questions of the nature here involved, on the spot where the data for them are immediately present, and where their results are also immediately applicable, without becoming personally excited by them;—and the more natural, or in due measure, even laudable, the feelings thus produced, the greater the danger of their becoming extreme both in reality, and in expression. Those who can best appreciate my whole subject, as having most carefully studied human nature generally, will best understand and appreciate this portion also of its intrinsic difficulty.

A. M.

Hobart Town,
30*th Nov.* 1838.

ERRATA.

Page 88, line 11, *for* qui' *read* qu'.
—— 106, line 15, *for* natural *read* mutual.
—— 168, line 5, *for* widely *read* wisely.

SUMMARY OF OFFICIAL PAPERS ON CONVICT DISCIPLINE, SENT HOME BY THE AUTHOR, OCTOBER 1837.—*(Laid before Parliament, April 1838.)*

THESE Papers were three in number, entitled a "*Report on Convict Discipline*,"—a "*Supplement*" to this,—and a "*Reply to Observations on the Report by Mr. Forster*. (Chief Police Magistrate of Van Diemen's Land.)" They were written at different times, and with different objects;—first to explain the general views entertained,—next to supply details,—and lastly to rectify mis-apprehensions. They have become, consequently, more voluminous than is, perhaps, in one sense desirable; yet to such as have leisure and inclination to go into the subject deeply, the variety of aspects in which circumstances have thus led to its being successively considered will be found advantageous.

The following Summary of I. the representations made, and II. the suggestions offered in them, will, however, be found a useful introduction.

I.—According to the actual system of Transportation, Prisoners are, on their first arrival in the Penal Colonies, assigned to private service at the will of a

Public Board, which endeavors, as it best can, to distribute them fairly and equally among the settlers, according to certain conventional rules laid down for its guidance. In the assigned service thus entered on, no wages are allowed to be given;—nor is any other *moral* impulse employed, excepting the remote hope of indulgence after four, six, or eight years, according to their original sentence. Until these elapse, the labor imposed is strictly *coerced*, or *Slave* labor; and, although accompanied with a fixed *minimum* amount of physical maintenance and support, sufficient to place above want, it is yet subject to all the discomfort and moral degradation incident to such a condition. The men are lodged in out-houses, six, eight, or more, under a stable roof;—they sleep here on truckle bedsteads, generally without undressing;—the floor is earthen, and often very soft;—they cook and eat in the same place, or in one not better, immediately adjoining, always in the roughest manner;—and they are subject to the most severe regulations, which any master can get enforced, on appeal to a magistrate, by equally severe punishments.* This is the usual picture in the

* "Q. 4277: Idleness and insolence of expression, or even looks, subjects them to the chain-gang or the triangle, or to hard labor on the roads? A. Yes. Q. 4279: So the convict, according to your account, is exposed to the caprice of all the family to whose service he may happen to be assigned? A. Yes. Q. 4280: And subject to the most summary laws? A. Yes: Q. 4281. Then the condition of the convict, in no respect, differs from that of the slave? A. No, except that his master cannot apply corporal punishment to him, but must take him before a magistrate. * * * * Q. 4284: And his condition, as an assigned servant, must make him feel in every way degraded; or, to use your own expression, haunted with a continual sense of degradation, and a vehement desire to escape from it? A. Yes. Q. 4285: Does that feeling of degradation destroy all self-respect on the part of the assigned servant?

country districts; in the towns there is more comfort, (sometimes in the case of a good house-servant there is even too much, consistently with a state of punishment) but there is much more temptation. Not being allowed wages, yet desirous of procuring indulgences, the prisoners too often steal to obtain means; and all fly to liquor, whenever they can obtain it, to drown humiliation and care.

At the end of the several allotted periods, each man may ask for, and according to the report made of him, may obtain, or be refused, a ticket-of-leave; but in this there is necessarily much uncertainty. The record kept of prisoners' conduct only embraces offences, no official notice being taken of good ordinary behaviour, as diligence, sobriety, obedience, honesty, fidelity, zeal, or the like; and thus, as only that appears which has drawn down magisterial censure, a careless fellow, however good his disposition and intentions, especially if he has had an indifferent master, may have a long list against him,—while a thorough villain, more happily circumstanced, or perhaps from the very power of deception which his practice in villainy gives him, may have few or none. When the ticket is obtained, a particular district is assigned, in which the recipient must reside. Within it he may choose his master and residence, and receive wages; but under a recent

A. I think it must have that effect on the mind of any man who reflects at all. Q. 4286: Then, if it destroys that feeling of self-respect, do you think that the Assignment system can in any way tend, in the majority of cases, to the reformation of the convict? A. *I think it affords a better prospect of reformation than any other species of punishment I am aware of!!!*"

Evidence of Colonel Arthur, *before the Transportation Committee of the House of Commons, June* 1837.

original bad dispositions, have thus irrecoverably ruined.

4. The evil also does not stop here. Social, like mechanical, impulses act reciprocally. The degradation of one class operates injuriously on every other; and it is impossible to view the state of society in the Penal Colonies, without being made most painfully sensible of this fact.

5. The Servants being made slaves, the Masters are made slave-holders; and the modification of slavery thus introduced is of the worst character. The Servants have not always held the same degraded position; they have been born, and have for the most part grown to maturity, in better circumstances. Many have education—more ability; and the passions of all are easily excited. The Masters, on the other hand, have no permanent property in their labor, nor any strong selfish motive, consequently, to endeavour to improve them. They are perfectly aware of their character and feelings. They do not fear them, because they are Englishmen,—are used to them,—and because the vicissitudes of a bush life form, at all events, rather an antidote to fear; but they dislike them proportionally, and are ready to believe the worst of them, and on slight provocation violently to coerce, punish, and inveigh against them. The analysis need not on this head be carried further. It is plain that the elements of domestic life are thus full of discord; and that of *moral* influence there can be here little or no exercise.

6. But the results go much farther. The disuse of *moral* influence in domestic life gives a harsh, peremptory, and overbearing character to the whole intercourse of society. Every difference of opinion makes a quarrel;

and every act, or decision, of the Government, or Courts of Judicature, constitutes a ground of vehement complaint, or political invective.

7. The severe regulations of the prisoner discipline also foster these feelings. They are so strict that they are not, and cannot be, universally put in force; yet every now and then even the most minute of them is acted on, to the loss and inconvenience of individual families by interfering with their domestic servants; and this is constantly thought to be caused by personal feeling, rather than by right or principle.

8. The disunion of society in the Penal Colonies is thus complete, and manifests itself in a depth of suspicion, and recklessness of assertion, beyond all precedent in civilized life; but which can, I think, be traced directly to the pervading and demoralizing influence of the existing Penal Institutions,—for the habit of suspicion and violent invective in private life speedily extends to every other relation.

9. Further;—no official record being kept of the good conduct of prisoners, (though their characters are frequent matter of enquiry when considering their applications for indulgence) the standard of moral worth is lowered generally—this being considered proved, by mere escape from detection in crime, and consequent punishment. And the severity with which minute conventional offences against discipline are currently visited, further tends to warp the judgment in forming estimates of moral character,—a breach of regulation being considered criminal, and carrying the pains, aspect, associations, and other consequences, of criminality, almost as a felony.

10. The essential and obvious error in this system, is

its total neglect of *moral* reasoning and influence, and its exclusive reliance, in every relation of life, on mere *physical* coercion. Law, or rather *regulation* comes thus to be looked to, rather than *principle*;—and the wide spreading mischief so caused, must really be seen to be adequately conceived.

11. Whatever one man can *legally* take from his neighbour, little matter how wrongfully, he will too often endeavour to take.* Whatever he can hope to wring from the Government by importunity, however unreasonable in itself, he will never cease applying for. What one by any favor or accident obtains, others immediately claim. The kindness or indulgence shewn to one is repined at unless extended to all; the selfish feelings everywhere predominate;† their expression

* See, for examples of this, the late Attorney General's (Mr. STEPHEN'S) Report on the Old Grants.

† The above are among the very few statements that I have been called on to make, which by any possibility can be considered personally invidious; and I willingly admit that there are bright exceptions to them. Yet, as conveying a general picture, not only do I assert their substantial accuracy, I even maintain that reasoners in England, familiar with such subjects, will be satisfied of their accuracy on the mere previous analysis. In the West Indies, where the form of bondage was infinitely milder than in these Colonies—where it was familiarized to all by birth and education—where no idea of punishment was involved in it—where there was thus no factitious *degradation* mixed with it—where, on the contrary, strong personal attachments frequently existed between masters and their servants—where the former were equally Englishmen—and where there were no land questions, nor any arbitrary distribution of labor by an irresponsible Government, further to excite controversial feelings,—still the mere element of domestic slavery produced a measure of the same effects; and can the Penal Colonies hope to be exempt from them? On the contrary, it may be demonstrated that societies, *in their general aspect*, are as irresistibly modelled by moral, as by physical impulses;—and that they can as little be brought in contact with slavery, for example, or discretionary rule, without exhibiting their ordinary results, as be subjected to snow and rain without being made cold and wet by them. In both cases individuals may escape.

everywhere runs riot; and as every one, from the highest to the lowest, appeals direct to the Governor, the turmoil in which he lives is incessant.*

* This last evil, (which is only at first sight minor to the others, for it involves many more,) also flows direct from the system, and from the *large discretionary authority required to work it*. The Government of the Penal Colonies used to give or refuse *land*, and it still gives, or refuses, *labour,—the loan of mechanics,—indulgencies of every kind,—bread in every shape*. (for even the official patronage of a coercive government must be extensive, from the number of subordinate checks, restraints, and superintendencies, which it must employ to gain its ends) It thus seems invested, in the eyes of the Colonists, with a character of omnipotence; and in its favor, or justice, a refuge is sought in every disappointment. The consumption of time and thought thus produced is intolerable;—and after all, the appeal in most cases is merely nominal, for its results must generally be the mere echo of the subordinate authorities. (This is to be presumed at once from the (assumed) probity of these authorities, and from the almost impossibility of the Governor's arriving, unless in very glaring cases, at an opposite conclusion from theirs, on documentary evidence of which the greater part, and that which carries the most weight, comes from themselves.) The practice, therefore, merely brings the Head of the Government in direct, instead of indirect, collision with the passions and prejudices of the people; occupies most inconveniently, and to the prejudice of higher matters, his time and thoughts; and creates and confirms an impression, readily conceived at all events, yet pregnant with much evil, that he is in the hands of those under him.

During the month in which this Paper was prepared, (September 1837) 431 applications for indulgence, from prisoners alone, were decided on by the Lieutenant Governor of Van Diemen's Land. I believe that this is above the usual monthly average; yet it may be considered as a specimen of the worse than useless labor, (for it leads to much practical injustice) imposed by a system of which *a large discretionary authority* is a necessary element. By the arrangement which I subsequently recommend, there would be no such applications at all;—a strict and universally applicable rule would entirely supersede them. And even if that were not altogether approved of, this should be one test by which the merit of any other should be tried.

Certain punishment, and consequently a very sparing use of the power of *pardon*, are even elementary principles in a good penal code. But here we have completely *uncertain* punishment, and a *universal system*

12. These inconveniences are, also, in only a small degree dependent on the *administration* of the system. It has been usual, it is true, to attribute them to certain peculiarities in the personal character of the several Governors—all of whom, in succession, have been thus inveighed against, and charged with political mal-administration. But the constant recurrence of the same circumstances, with either the same complaints, or totally opposite ones, as one or other party, or class of individuals, have thought themselves aggrieved, and always accompanied with the same extremity of censure, sufficiently proves that the cause lies much deeper than the mere personal character of successive Governors.

13. The evil is due, I think, (and as I show at length in my papers), to the union which the system attempts to make of a state of *direct punishment*, from which *physical coercion* is inseparable, with one of *training*, or probation—of which *moral* influence ought undoubtedly to be an ingredient, but it will not, and cannot, amalgamate with the direct restraint. And the confiding both operations to the chance hands of settler-masters, completes the injurious effect which this medley is otherwise calculated to create.

14. Under this system the prisoners are considered to be in a state of *punishment for the past* during the whole period of their sentence; yet are they expected to be *improved for the future* by the treatment which they thus receive. They are first made slaves to their

of pardon, which from the very nature of its machinery must be administered as nearly capriciously and accidentally as is consistent with good intentions, but human frailty, throughout.

masters*—and then, (even in the best case, that of a ticket-of-leave), equal slaves to the police,—as though they *could* be qualified by any such means to enjoy, without abusing, their freedom, when the turn of a single night shall totally change their position. The masters, on the other hand, are placed in the most difficult and delicate circumstances, without the slightest preparation for them, or any strong motive to induce them to study the duties imposed on them. Being made slave-holders, they are subject to all the demoralization incident to such a position;—*and to more also*. They are charged to *punish* and to *reform* their country's criminals; and they neither know, nor care, about either operation, for naturally and necessarily their dominant object is to make the most of the labor which thus passes through their hands. They only have their self-love elevated by the superiority of position assigned to them,—and their contentious feelings whetted, and their hearts hardened, by the right of harshness, contempt, and unrestrained invective, which it is supposed to give them.

15. Surely there is no science in these arrangements, such as ought, in the present day, to distinguish the political and penal institutions of a country like England; nor any humanity, nor any justice, nor much even of that practical wisdom which seeks at least to derive the utmost selfish advantage from the materials under its hands. The prisoners are all made *bad* men instead of good. (It is shewn by the official reports, transmitted with my papers, that scarcely any are reformed; and human nature does not stand still,

* See Note (A) at the end of the Chapter.

if not improved, it gets worse.) The masters are made headstrong, overbearing, and dissatisfied, if not otherwise bad, subjects. The punishment inflicted is *uncertain, unequal, oppressive chiefly to the best men*—but in almost all cases greater than it appears; and the example set by it is, in proportion to all these characteristics, less than the price paid for it ought to purchase. The convict labor being *artificially* distributed, is necessarily *imperfectly* distributed. Here it is in excess, there beneath the demand; and under the existing restrictions even that portion of it which is comparatively free cannot circulate, so as to meet the fluctuating wants of communities already far advanced in luxury and civilization. Being coerced, the productive effect of the remainder, is half lost through resistance;* yet being apparently gratuitous, (though thus really expensive) it is a powerful obstacle in the way of free-laboring Immigrants, who (in Van Diemen's Land at least, where new fields of enterprize are becoming rare) can only with extreme difficulty obtain permanent engagements, the masters generally hoping that they may get a prisoner assigned to them

* Among the Official Papers transmitted, will be found a Report by the Director General of Roads in Van Diemen's Land, shewing, among much other valuable matter, that the productive effect of 3s. worth of convict labour, as now worked, is only 1s. 3d., and that £50,000 a year are thus lost in his Department alone. [From 1,500 to 2,000 prisoners are constantly employed in this department; and as they receive no wages, their direct cost to the Government is only their maintenance, and the tools they wear out. But allowing 3s. a day each as the marketable value of their labor were they free men, its productive effect should be £60 a year each, or from £90,000 to £120,000 a year the whole, even to cover their expence. And the Director General shows that it is not really worth half, while the Settlers maintain that it is not worth a quarter.]

suited to their particular purpose, and that they may thus save the direct expence of a free servant. Distress, and consequent vice and dissipation, are thus common among the free, as among the bond. In 1836, the proportion of crime convicted before the Supreme Court and Quarter Sessions in Van Diemen's Land, was as 1 to 150 of the whole population; and of drunkenness, summarily convicted among the free people alone, was 14 per cent., or one in seven. In England, the first proportion is, I believe, usually about 1 in 1000; in Scotland, 1 in 1300; and the second (except in London, and one or two other large towns, in which in 1835 it ranged between 1 and 2 per cent.) is over the mass of the population becoming, with improved morality and institutions, an almost indistinguishable fraction.*

II.—The evil, then, is crying; and I almost hesitate as I thus sum it up,—for it seems at first incredible that, being so great, it should not sooner have attracted notice. But 1. It has been progressive, and has only of late years become what it now is. And 2. It is important to observe that the wide spreading mischief of a system like this, of which the *principle* is vicious but the administration has been able, is much less discernible, especially to those long accustomed to contemplate it, than the injurious consequences of comparatively trifling blemishes on the surface of otherwise good arrangements. The operation of a *principle* is uniform; everything around it either flows from, or is accommodated to it; its effects appear necessary and

* See a future Chapter on the Movement of Crime in Van Diemen's Land.

unavoidable; and their inconveniences under firm and skilful superintendence being remedied in detail by improved apparatus, a thorough revision long seems unnecessary. (Thus, for example, were the evils of Black slavery long endured and palliated,—of English Poor Laws,—of close Government, in Ireland and elsewhere; and thus, too, have improvements been introduced, especially of late years, and others are still proposed, in the details of convict management, by the several resident authorities.) But in all cases, I am persuaded, such palliatives will be found eventually to aggravate, rather than mitigate, a real evil. They disguise some of its rankness;—they thus prolong its duration, and give deeper root to its injurious results;—they give the ingenuity of administrators a wrong direction by leading them to endeavour to suppress the *indications of error*, rather than remove *error* itself;—and they ultimately make entire change more difficult, because a certain amount of apparent good undoubtedly following each supposed improvement, people are led to believe themselves in the right way when they are really only going further astray,—as in the case immediately in question, in which, instead of seeking to improve the apparatus of *physical coercion*, the real problem is how we may, in whole or in part, advantageously dispense with it.

What, then, is the true remedy? The previous analysis to a considerable extent explains my opinions on the subject; but the following details may also be useful.

1. The two objects contemplated by Transportation, *punishment and reform* (sought to be obtained by one process in the existing arrangements), should be se-

parated, and each distinctly contemplated and pursued.

2. The Government should charge itself, and its own agents, with the processes which may be deemed suited to the attainment of both. Or, in other words, the prisoners should be *punished for the past*, and *trained for the future*, in Government employ;—and should only come under the direct authority of the general population when they have obtained their tickets-of-leave, receive wages, choose their own masters, and are thus in a position of comparative freedom and equality.

3. These few and simple changes would, of themselves, make *punishment certain and appropriate, training systematic*, and *abolish that domestic slavery*, the moral injury arising from which is at present beyond calculation. But the full benefit of them could only be reaped by making the treatment in each stage as perfect as possible, and as much accommodated as may be to each particular purpose.

4. The expense of making the change in the best manner would, no doubt, at first be considerable (though less so than may appear immediately probable, for the additional labor which would for a time be placed in the hands of Government would be thus much more productive than under existing circumstances, and might also be beneficially and profitably applied); but eventually the transition would be a source of direct economy, *very nearly in the exact ratio of its completeness*. The expense of the Penal Colonies is at present enormous,*—partly from the prevailing

* In 1836 the taxation of Great Britain was estimated at £2 12s. per

system of mere coercion in them,—partly from the unproductiveness of every description of labor under this system,*—partly from the crime which it directly generates,—and partly from the large police, and other public checks and establishments, which the repression and punishment of this crime render necessary. A system of *training*, on the contrary, could only be effective in proportion to its successful adaptation of *moral influence* to its object;—and any system founded in large measure on *moral influence* must be less expensive than one of mere physical restraint.

5. But even if a permanent addition were to be thus made to the expense of the Penal Colonies, the object would be worthy of it. (There can be no chance of this, but the alternative may be put.) It is a debt due by England to her Penal Colonies, that their social system shall be as little as possible deteriorated by their being made the receptacles of her banished criminals. And when we further consider that the object of the proposed arrangements is to give *certainty* to

head of her population; and this covered every expence, the interest of the National Debt included, leaving a small surplus. Excluding the interest of the debt, but including every other branch of expenditure,—as the whole Civil, Naval, Military, Colonial, Diplomatic, and Monarchical Establishments of the Empire, the taxation is, I believe, under 14s. a head. In Van Diemen's Land, on the contrary, the Expenditure in 1837, was £167,608 on Commissariat Account—and £137,380 on Colonial; or above £7 per head of the gross population—41,600.

While Van Diemen's Land is a Colony, and especially a Penal one, it will obviously be impossible to bring these proportions together, or even very near. But so great a difference as this is only explicable on the greater cost of *physical coercion*, than of *moral influence*,—of obedience compelled by brute force, than induced by reason, persuasion, concurring interests, and the like.

* See Note, page 12.

the administration of her criminal law,—to bring justice out of injustice,—adequate example out of punishment,—freedom out of slavery,—reform out of hardened guilt,—and a smiling prospect for the future out of the moral gloom which now hangs over the social prospects of two of her most powerful Colonial Children,—the debt claimed seems due by England to herself, and her own character. It is seed corn that she is called on to sow.

6. Government having undertaken both processes, therefore, *(punishment* and *reform)*, ought not to perform either in a slovenly manner. It should consider that there is a *science* in each ; and that no pains should be spared to bring into practical operation, whatever principles may be established in them. The pecuniary and moral returns, it may be confidently said, are alike involved in the change, if made at all, being made effectually.*

7. I submit accordingly in my papers a variety of suggestions on both heads; but I am attached to the *ends* proposed, rather than to the *means*—and should be most happy to see these latter improved on.

8. I recommend punishment for the past, to be inflicted in *seclusion from the free population altogether*, at stations appointed for the purpose in each Penal Colony, and which may be changed from time to time as the spread of the population, the scope, or demand, for useful labor, or other circumstances, may suggest. The punishment itself should consist of hard labor

* " Beware of great changes ; but if necessity enforce, fit the rest to it. For it is a secret both in nature and art, that it is easier to make many changes than only one great one."

BACON.

(enforced, if necessary, by *physical* means, for in this stage it is desirable that the convicts' minds should be humbled);—with instruction, *moral*, *religious*, *mechanical*, and *agricultural*, so as to fit the prisoners for constituting afterwards a good rural population. (I contend that the seclusion of the prisoners while under direct punishment is desirable for the sake both of free and bond,—the sight of such infliction being *morally* as injurious to the one, as the being indiscriminately seen when under it is to the other class. And in seclusion instruction would be better attended to;—and liquor and other means of evading punishment, would be more rare.)

9. The *moral training*, on the other hand, I recommend to be in employment on the roads and other public works; these, however, to be conducted very differently from what they now are. I would have no direct punishment inflicted on them, nor any *physical* coercion used; but the most stringent system of *moral influence* that can be devised should be here brought to bear on the prisoners,—or, as I would now call them, *probationers*,—to induce them to behave well, and work out their further liberation, on tickets-of-leave, by inspiring a just confidence in their future good intentions.

10. For this purpose I suggest that the men should be brought from the punishment stations to this stage of their sentence in parties, say of six, *who should choose each other*, and agree to run the chances of their probation *together*. Thus, after a man has completed the period during which, according to his original sentence, he must remain under direct *punishment*, he would remain indefinitely longer until he could persuade other

five men, similarly circumstanced, so far to believe in his good intentions as to be willing to connect their own fate in probation with his, and to rise or fall, as afterwards explained, according to his and their own conduct *jointly*. And I contend that the necessity which would be thus imposed on all, even in their first stage, to cultivate the good opinion of their fellows, would of itself produce a good moral effect, and advantageously prepare them for their further trials; for it would give a value to the *social virtues*, usually excluded from the receptacles of criminals; and would prevent favour, or hypocrisy, from deriving undue advantages. Superiors may be partial or deceived, but not equals.

11. These parties, then, of six (more or fewer as may be found practically best), when entered on their probation should be reckoned with every evening by the Superintendent under whom they may be employed in the Government Works; and should receive marks in his book, to their credit or discredit, according to their conduct. If they have been orderly, obedient, sober, zealous, attentive, active, industrious, cleanly in their persons and rooms, civil, temperate under provocation, (should such have been offered to them,) punctual in their attendance (at prayers, school, work, &c.,) or have in any other way deserved commendation, they should be gainers accordingly; and if, on the other hand, any *one* has deserved censure his party in proportion, should suffer.* (I am confident that this

* This may seem at first sight harsh, or even unfair; but it is just the law of Marriage, of filial and parental relationship,—of mercantile partnership; and, as adverted to in the text. it is familiarly resorted to,

union of fortunes among several would have the best possible effect. It is not unknown already in improved Naval and Military Discipline; and is always found to constitute the strongest *moral* and *physical* restraint.

12. On entering on this course of probation the

with the best effect, and without creating any feeling of dissatisfaction, in controlling boats' crews on duty from ships of war, and soldiers and sailors on leave, &c. There is, indeed, a tendency in men thus to group, and "cast in," as it is called, "together," for support in difficulty, temptation, toil, or danger,—which habitually appears in them, even without compulsion, and always produces a good effect. Reapers in a field, labourers in a quarry, miners, soldiers and sailors on frolics or storming parties, prisoners endeavouring to effect their escape, in their several ways all exemplify it; they have almost always some conventional association among themselves, which connects each particularly with one or two others; and the utmost fatigue and danger are voluntarily encountered, rather than leave these in difficulty, or abandon them in peril. Solitary individuals are, on the contrary, observed to be much more indolent, less enterprising, and more easily discouraged; and proverbially they are also considered less amiable. In a future Chapter, "On different systems of Managing Convicts," and also elsewhere in this Volume, great value is atached to this "*Social*" principle, as I have denominated it; and on which, and the still higher ones of a due Christian benevolence in administering punishment, and a due study of human nature before attempting to prescribe for it, I found sanguine hopes of seeing the details of all existing systems of treating criminals at least modified, if not entirely changed.

Vice is a disease, and Penal Science is just moral Surgery. The means it employs must often be painful; but its object should always be benevolent—always the *speedy* discharge of a *cured* patient. When this is fully understood a man will be considered himself criminal, if he administer pain for its own sake, or with vindictive feeling, or in indifference whether his treatment makes his patient better or worse, or without mature study of the body on which he attempts to operate, or if he think of hanging fetters on a fellow-being for life on account of a wrong step perhaps in early youth. And it will be the laudable ambition of every form of Secondary punishment, as it is already of the supporters of Penitentiaries, to make punitive processes short, yet relapsed criminals few.

restrictions imposed should be severe; and a fixed number of marks of commendation should be requisite to procure successive degrees of relaxation. But in all cases the rules should be enforced merely by the gain, or loss, of marks,—never by *summary punishment;* and those parties of which one or more of the partners cannot be restrained by this moral influence, and that of their companions over them, should be returned to punishment, allowed to dissolve their temporary connexion, seek other associates, and so begin again. In no case should a refractory individual be dropped without thus in some degree punishing his companions also,—for only thus can the utmost exertions of a whole party be insured to reclaim a bad man. The experience of this also would make it more difficult for the irreclaimable,—or those who in existing circumstances often take a pride in being considered such,—to get away from punishment at all. And as, although I would make the indispensable period of punishment short, I would make that of probation depend entirely on conduct, and on the fulfilment in every case of all that it demands,—the obstinacy, real, or pretended, of almost any would, I am persuaded, be overcome by a system which would thus, as it were, regulate every man's sentence by the unimpeachable verdict of a Jury, of his own selection, out of his own class.

13. I am convinced that the Social decorums, virtues, and feelings, which would be thus early and universally elicited, would have the most powerful effect in changing the characters of many, even of the very hardened. Vice is selfish;—and a man is half virtuous when he is habituated to study the good will

and interests of others as his own.* In passing through this course of probation, therefore, I would expect many evil passions and propensities to be for ever laid aside; and, at the least, considerable powers of self command, next to principle the greatest preservative from crime, would be universally called out.

14. Accordingly, when the ticket-of-leave was at length obtained, I would not clog it with all the restrictions now imposed upon it. I think that I would even banish entirely the summary jurisdiction now exercised by the Police over men who have gained this step. Summary power is a snare alike to those who wield, and those who are subject to it. Frequent musters are both a snare and an interruption. Men approaching their freedom should be habituated to feel tolerably free, that their entire liberation may not intoxicate them. And, at all events, I think that nothing less than a solemn judicial sentence should deprive a man of what, before he reaches this point under a vigorous system like that here detailed, he will have most dearly earned.

15. In my several papers, accordingly, I discuss this, and other similar points. But neither here, nor in them, do I attach so much value to these details as to the fundamental principles,—of introducing system into the management of convicts by keeping them during the early stages of their sentence under the immediate management of the Government,—of thereby rescuing both bond and free from the mischiefs consequent on the present plan of compulsory assign-

* The character of prisoners, both male and female, is observed to be always improved by marriage.

ment,—of distinctly contemplating in the treatment of the prisoners, first their *punishment for the past*, then their *training for the future*,—and of substituting in the pursuit of this latter (as has already been done in the discipline of the Army and Navy, in Schools, Lunatic Asylums, and every other place in which masses of human beings are sought to be guided,) a suitable degree of *moral influence* for the *cold*, *hard*, *unwearied*, *coercion* which is now alone employed. Either these principles are right, and ought to be attended to,—or all the moral and political Science of the day is wrong;—for they are in accordance with every line of it.

16. I most earnestly recommend the Subject, therefore to the attention of Statists* and Philanthropists in England. It is worthy of their deepest consider-

* I have already adverted (Note, p. 15) to the subject of economy as bearing on my proposal; but as the proposition may at first sight appear peculiarly formidable, on this score, to retain all prisoners for a time in government employ, it may be well to examine it here, financially, somewhat more closely. The average number of prisoners, then, that arrive in Van Diemen's Land, is about 1,800 annually; and if the proposed treatment of them proved successful, it might fairly be inferred that, taking the good and bad together, from three to four years would give all of these, on my plan, their tickets-of-leave. About 6,000 may, therefore, be assumed as the probable average number which this system would, at any time, place under the Government,—none receiving wages, and the labour of all not only voluntary but emulative, and therefore more than to an ordinary extent productive. And the number of prisoners at present under Government, including constables, superintendents, men on government works, under sentence, &c. is above 5,000,—the labor of those first specified not being productive,—all of them receiving wages,—and all unable, if, indeed, above half be not also unwilling, to extort from the others above a third of the exertion which they ought to make.

On such a subject economy is, *per se*, an unworthy argument. But when argument is past, it may well become a subsidiary recommendation.

ation. There never was a moral field in which so striking an experiment might be made, or with a more certain, and striking result. A Statesman of the highest rank might be proud to occupy the first, to conduct *(even in person)* the second,—and to crown himself with the undying honor of the last.

17. The task would not be very difficult if only undertaken energetically, comprehensively, and with *adequate authority*. Some obstacles may be anticipated from the natural disinclination of those who have been trained in one System, to become again pupils, and learn an entirely opposite one;—and as the interests of the Settlers may also appear at first sight menaced, some preliminary objections may be expected from them too. But the existing evils are universally recognised, though their derivation is not yet distinctly understood;—and with patience, temper, discretion, firmness, indifference to mere clamour, but a sincere wish to obviate real objections, and discuss the principle of intended changes, the intelligence of all would be soon gained,—for all are alike injured, and would soon see that they are alike injured, both *morally* and *pecuniarily*, by the existing system.

NOTE (A.)

(FROM MY OFFICIAL PAPERS.)

In all my statements regarding the Convict system, I am most anxious to be understood as not blaming the masters individually, or charging them with cruelty or harshness; for on the contrary, the greater number of Settlers, I believe in both Colonies, but certainly in Van Diemen's Land, partly from natural disposition, and partly, it cannot be doubted, from an instinctive and admitted feeling that more work is to be gained from the prisoners by kindness than by severity, relax the strict regulations of Government in their favor, and thus confer a certain *physical* benefit on them, and reap in return that reward from it, in their own individual cases, which is currently known, and cited on the spot, as the result of treating and managing assigned servants well. Yet the general result, as I have depicted it, is not, I am certain, materially altered even by the great prevalence of such examples. The indulgences granted are uncertain; they vary in their amount; gratitude is claimed for them; they are occasionally withheld; and they are necessarily accompanied with a suspiciousness and ill-disguised contempt, the result of constrained service, which are most severely felt precisely by the best men. In no one instance, I am persuaded, do they thus materially lighten the sense of *moral* suffering borne; nor, (unless in very few cases indeed, of a peculiar, and chiefly religious character) do they stay the downward course caused by its long continued pressure. On the contrary, some of their effects are even *morally* pernicious. Their unequal, and as it were capricious, distribution creates discontent among those who

only partly enjoy, or are altogether denied them. Their illegality, for they are in many cases expressly contrary both to the letter and spirit of the regulations, brings the law into contempt. They increase the apparent uncertainty and inequality of the punishment. By accustoming the men to be swayed by low motives, addressed to their mere appetites, they unfit them to be guided by higher ones,—as those are always the worst and most unreasonable children who are habitually bribed to good conduct by sweetmeats. In a word, they merely substitute for the harshness of a severe system, the capricious weakness which also generally characterizes such ; and though some individuals are thus physically relieved, the result, as a whole, is unworthy even to be compared with the benefit which would flow from the firm, unsparing, uniform administration of a more benevolent code.

It would not be difficult to maintain that the evils of the system are thus even, in fact, aggravated, by being disguised, and having their distribution arbitrarily interfered with. But, I am unwilling to carry the argument quite so far, and am content to consider these exceptions, or rather resistances, to abstract principle as examples rather of that *vis medicatrix reipublicæ*, which we constantly see exercised in society, and which corrects practically the harshness and crudeness incident to all human combinations.

I wish also to be understood as not either blaming the Magistrates individually. On the contrary, their task I admit to be a very hard one, and most of them feel it so, The system which they administer being at once strict, and (as involving unnecessary degradation) corrupting,* the pressure against it is such as can only be resisted by very severe punishments. But by so much as this exculpates them, it the more condemns that system itself. Severe punishment is necessary under it :—but it is itself unnecessary.

* See a future Chapter on Degradation as an element in Punishment.

NOTE (B.)

To shew that my opinions regarding the present system of Convict Discipline are not singular, I here insert portions of various communications which I have received at different times regarding them. I do not feel authorized to withhold from the first the distinguished name attached to it; it seems due both to my cause and myself; and no inconvenience either can, I think, arise from adding the names to the three following, the authors of which are otherwise easily distinguishable. But I have not felt entitled even to ask the writers of the others to share in the inconvenience arising from the maintenance of unpopular opinions; and they stand thus on their own abstract merit, which, however, is sufficient for my purpose. They appear to me strongly to illustrate what I say repeatedly in this volume regarding the general intelligence and good feeling to be found, amidst all the injury inflicted by a vicious social system, in the communities of the Penal Colonies.

1.—"Your Paper on the Convict System has been once carefully read over. *I fully agree in the representation you make of the evils which result from the system under its present form.* I have not sufficiently digested what is proposed to supercede it to venture on an opinion as to its success. The whole subject is worthy the careful consideration of a Statesman and Philanthropist. I am glad to find that you have taken it in hand. The uncertainty which prevails as to the intention of His Majesty's Government to maintain Transportation as a Secondary punishment has discouraged attempts for the improvement of its operation in these Colonies. I hardly think

that convicts can be much longer sent out to this part of New Holland.

"RICHARD BOURKE."

2.—"James Backhouse and George Washington Walker* desire to express their obligation to Captain Maconochie for allowing them to peruse his MS. Essay on the Transportation System, and its influence in the Penal Colonies, which they have read with intense interest, and very great satisfaction: for much as they consider the present system of penal discipline pursued in these Colonies superior to the gaol system in England, for reasons which they thought it their duty to specify in their Report to Colonel Arthur, yet these documents sufficiently convey their strong sense of its many and radical defects; and they are fully convinced that the plan devised by Captain Maconochie is very far superior to either.

"This superiority, they conceive, exists essentially in the bringing moral principles to bear on the prisoner population for the promotion of their own reform, at the same time that it promises to act reciprocally on the moral character and well-being of the free inhabitants by whom these unhappy men are employed;—in removing those cruelties and oppressions that are irreparably connected with the present system, and which are irreconcilable with Christian principle, and consequently with sound policy;—and in placing both the prisoner and free population in a much more favorable position than they at present occupy for the reception of

* Members of the Society of Friends, who recently left these Colonies, after devoting five years to a minute and careful examination of their moral state. Of the worth and intelligence of these gentlemen, I need not here speak; in the above letters they have furnished their own testimonial of them; and it must be gratifying to every philanthropist to know that they have merely transferred these qualities to another Colonial field, being now similarly engaged in the interior of the Cape of Good Hope, and along the Caffre frontier.

religious principle, which, in the existing state of things, is rarely to be found among either of these classes.

"J. B. and G. W. W. may add that they see no formidable difficulty in the way of carrying into effect the plan proposed by Captain Maconochie."

3.—"In returning the Supplement to thy observations on the Colonial Penal Discipline, we are inclined again to express our conviction of the great benefit that would be likely to accrue, both to the prisoner population and the public at large, from the adoption of such a principle as therein unfolded. This principle is nothing less than the application of moral influence in place of coercion,—the same which has been successfully brought into operation in Schools, Lunatic Establishments, &c., and which is equally available for the amelioration of the convict population of our Penal Colonies, and would also, reflectively, produce the happiest effects on the free inhabitants.

"In carrying the principle in question into effect, we most fully concur in the opinion that the punishment at the projected Penal Settlements for prisoners on their first arrival should be considered perfectly distinct from the discipline of the probationary gangs, yet regarded as the first step in the ladder of reformation, and return to forfeited privileges.

"Such a plan as that proposed would render the certainty of punishment much greater than that at present in operation; and would have this important recommendation, that whilst the punishment inflicted would at once be seen and felt to be punishment, yet its nature would obviously be correction rather than vengeance.

"The mode of classification projected in thy Supplement is the only satisfactory one that has yet come under our notice. The separation of prisoners through the selection of Superindents, even when age, sex, and external character are attended to, is still very defective in moral operation; but this defect

would be remedied by allowing small groups to agree to attempt ascending the scale of reformation together. The prisoners who exhibited reformation of character, and were allowed to associate themselves voluntarily in a room apart from the rest at the Penal Settlement at Macquarie Harbour, furnish the only practical approximation to this part of thy plan that we have witnessed ;—it worked well, though it fell far short of that now proposed.

"Should thy system be adopted, which we most sincerely hope may be the case, it has occurred to us, that more than one Penal Settlement would be desirable, that emulation, and a diversity of talent in those who conduct them may be called into exercise, and that the want of ability in any one Superintendent may not bring discredit on the principle.

"Were these settlements to be established in such parts of the Colonies as are heavily timbered, and where the soil is good, the prisoners might be advantageously employed in clearing the land, and bringing it into cultivation in small farms; and when this was done to a sufficient extent, the farms might be sold, and the buildings of the settlement being originally arranged with this object in view might form the rudiments of future towns or villages.

"James Backhouse,

"George Washington Walker."

4.—"Having been privileged with the perusal of thy Summary Essay on the Penal Discipline and state of the population in the Penal Colonies, we think it due to thyself, and to the cause of benevolence, to express our conviction, founded on observations made during very general visits of upwards of five years to New South Wales and Van Diemen's Land, that the sad picture it developes of the effects of the system at present in operation is not overdrawn.

"The state of discord and selfishness which very generally prevails among the Colonists, is a subject that soon forces itself

painfully on the notice of visitors among them, notwithstanding the pleasing impressions that may be produced, especially at first, by the general intelligence and hospitality of the community.

"We have always been disposed to reject the idea of Slavery as connected with the Assignment of Prisoners, because no property is claimed in their persons; but we must acknowledge the justness of thy comparison between the bondage of the prisoners in assignment, so long as that bondage continues, and that of the slave; and that its parallel effects are distinctly to be traced both in the servant and in the master; and with these effects we think must be identified a large proportion of the evils so lucidly depicted in thy Report on the Convict Discipline, and in the Summary.

"Such being our matured sentiments, the introduction of a system which, with much show of reason, proposes to substitute moral influence in the place of physical coercion in the correction of criminals, and the incitements to good conduct which in free communities constitute the connecting links between masters and servants, instead of arbitrary authority on the one part, and abject servility, or desperation, on the other, appears to us to claim the best wishes, as well as the hearty co-operation of every friend of the human race.

"James Backhouse,

"George Washington Walker."

5.—"I have forwarded to His Excellency your Report on the present Convict System pursued in this Colony; and have perused this and the Supplement to it with feelings of the greatest interest. There can be no doubt that the alterations and improvements urged in your enlightened and humane Report will find with the Government at Home, as well as in the Colony, advocates for their adoption—at all events in principle, if not in detail. And I hope that you may be amply repaid before you leave this Colony, by witnessing their bene-

ficial effects, and the completion of a System which has for its object the prevention of crime, the promotion of good to all classes, and I may say the salvation of so many of our fellow creatures."

6.—"I have perused at different times, with the deepest interest and attention, your valuable papers on Convict discipline.

"It would be impossible to deny, that our Police arrangements are admirable, and that for most of the objects in reference to which they have been projected they are effective. The punishments inflicted on the unhappy convicts are generally severe;—often alas! too much so. The condition of most of them is unenviable; at the best, they are only slaves. It is indeed to be lamented, that their real state is not known more extensively, for men might then be deterred from committing crime, who are now tempted to it by the imagined benefits of the change which transportation has been supposed to afford them. But, whatever else of good may result, no reflecting person will dispute that, so far as regards the reformation of the criminal, the system of convict discipline has signally failed; or that, looking to the higher and better interests of the community upon which that system has been so long inflicted, its effects have been eminently disastrous.

"Your picture of these effects,—upon as well our social as political fabric,—is indeed too highly coloured:—and in some points, if you will excuse my saying so, inaccurate. More than one of the evils which you truly state to exist amongst us, may, I think, be traced to another source than the presence of a noxious system of Convict Discipline. But, however humiliating may be the confession, you have too truly sketched the main features, to admit of their not being recognised. Yet I would fain believe, that we are not radically demoralized; and that good feeling and right principle

are obscured only, not destroyed.* I would hope that, if the injurious influences of a system which you have described so well were removed, we might resume our native health and moral vigour.

" The adoption of your grand, and philanthropic principle, in whatever shape it may be introduced into that system, the substitution of *moral* influence for mere *physical* coercion,—will go far at once to remove these evils; and I trust that, whether more or less extensively, it may at least be tried. Reformation, at all events, if that be one object of punishment, is on the present plan hopeless :—in the existing state of things nearly all the tendencies of the plan are the other way. The punishment is, under it, too long in duration, unequal, indiscriminating, uncertain. A well-disposed man becomes hardened and degraded by it. If careless in his habits, or hasty in temper, he is driven to desperation; while a worse man, phlegmatic and cautious, by avoiding offences to which the other is most prone, obtains reward. Upon the whole transportation is truly a condemnation to slavery: but miserable as for that reason, the state of every convict must be considered, it is a state that depends too generally for its alleviations on the habits and character of the master, not on the conduct or propensities of the man. With one a fault is synonimous with a crime; and our Colonial punishments show that there is often little attempt, anywhere, at discrimination between them. In short, what is our great engine of punishment and reform ? *Assigned Service !* The two objects, which seldom, if ever, can be pursued with effect simultaneously, are thus placed at the mercy of an agent whose end is the getting out of his slave as much work as shall be possible. A poor unfortunate, banished perhaps for a first offence, dull though willing, and unskilled though comparatively honest, obtains a hard service. His lot is a wretched one; punishment succeeds to privation; his fate is sealed. Another fellow,

* I most fully concur in this position.—A. M.

scarred all over with crime, perhaps an educated burglar, lands probably from the same ship, and becomes a house-servant in some town establishment. He wears livery, sleeps in a bed of down, and lives in luxury. Perhaps he has wages equal to those of a London butler; he romps with the maids; and writes home, by the first vessel, to paint all his happiness to his former companions in roguery. Is this lottery, where the prizes are generally to the worst, fit for the established system of punishments of a great nation?—But if the convict offends, what then? He is returned to his master, punished indeed, and heavily, but a worse man probably than before.

"What system should be substituted for this? Precisely that which you propose:—one that shall separate the two objects of punishment and reform, and begin with the first;—that shall make the earliest impression of transportation formidable alike to all;—that shall nevertheless aim at discrimination and classification between different offenders, in each stage of these processes;—that, above all, shall throughout seek to attain its ends by *moral*, as superior to *physical* restraints;—that in striving at these its immediate objects. shall endeavour to form, if it be possible, a united and virtuous people;—that, in promoting the true welfare of our Mother Country, who has so long spawned forth her pestilent brood upon these shores, shall not forget the real interests of her children, whom now they only contaminate;—that shall earnestly be directed to the noble effort, worthy of combined wisdom and benevolence, of training men in spite of themselves, to become industrious and honest members of society.

"If, in the details of your plan, there shall be even much that is objectionable, or that may seem visionary, the leading object which it discloses—the great principle by which it is characterised,—will remain still unshaken;—and I for one, deeply impressed with a sense of its value, hope that it may become sooner or later acknowledged and acted upon.

7.—"I regret that I have not time to enter as fully into this important subject as I could wish. Have you ever considered the value to your case of the *returns of crime* which could be procured by you? Take one fact, that just now occurs to me. Of the present number of criminals, being free and convicted in the Supreme Court and Courts of Quarter Sessions, a very large proportion,—I should say three-fourths, —are men *free only by servitude.* Indeed by a return now before me of 70 accused and fully committed for trial this month, (including a period of about two months' commission of crime), 46 are time-expired or pardoned convicts,—distributed as follows;—forgery 1, stabbing 1, sheep or cattle stealing 3, burglary 6, simple larceny 35.

8.—"I most readily give you the opinion as to the effects of the present system of prison discipline in this Colony which my eleven months experience has enabled me to form. If my opportunities of observation have been limited, owing to the shortness of the time I have been in the Colony, I have the advantage of being able to view things with English eyes, especially as I have from time to time since my arrival committed my observations to paper, and can thus recal my first impressions. I have also had from residing in the interior opportunities of observation which I should not have possessed in Hobart Town; and I am conscious of no bias from my situation or other circumstances, except that, having acquired a small stake in the country, I am not indifferent to its prosperity.

"The present system, then, appears to me to fail to obtain either of the ends said to be proposed by it; for it does not inflict any degree of physical punishment worthy of mention; and I must confess that I cannot perceive any tendency in it to reform; nor can I perceive such an effect.

"The degradation and moral suffering arising from the condition of a prisoner must, I conceive, be felt by every

Englishman reduced to a similar state, and so far a species of punishment is inflicted in every case. But it is least felt by the hardened offender; and though perhaps the average of physical toil imposed may be as great as it is thought in England, of which however I have considerable doubt,—yet I am sure that few persons there have any idea how unequally it is distributed, or with how little regard to the guilt of the prisoners. In fact the degree of suffering is a mere matter of chance. It depends on the character and disposition of the master to whom the prisoner is assigned, just as the condition of the slave depends on the disposition of his owner. If the sentence is really to be carried into effect, the Government must take upon itself the infliction of it. The great majority of the masters care nothing about the punishment or reformation of their men—they view them merely as materials for their own advancement—their object is to get as much work from them as possible, and whether they use the indulgent or the coercive system it is but a means to the attainment of this end. I believe, owing to the humanity or weakness of the masters, or perhaps from an idea of its greater efficacy in producing labor, the indulgent system is generally employed. The men in these cases are far better fed, as well as clothed, and do far less work than honest English laborers; and some masters will submit to almost anything rather than bring a man to the Police-office. A friend of mine told me that on one occasion all his men sat down in his corn field at harvest, and refused to work because his supply of tobacco was exhausted. He expected some hourly from Hobart Town, but was obliged to procure a supply from ———— to induce them to work. Tobacco, you are aware, was an indulgence which he was not obliged to allow them; and the men were at that time (harvest) receiving as much flour and mutton as they chose to eat, and a bottle of wine a day (I suppose Cape). Instances of this kind are not, I believe, very frequent, because such masters take care not to be without tobacco. Some

masters adopt the coercive system, and for the slightest offence charge their servants with insubordination, neglect of duty, or some other offence against prison discipline, not easily defined, but easily substantiated. At the house at which I lodged for a month after my arrival in Hobart Town, and where I had greater opportunities of observing Colonial domestic economy than I have since enjoyed, the prisoner servants were treated as badly as I can conceive any slaves to be out of the West Indies. They were invariably addressed in the most imperious manner, frequently with opprobrious epithets, and for the slightest tangible offence taken to the Police-office. This uncertainty of the degree of punishment which will follow a certain crime appears to me an evil of considerable magnitude in another point of view, as diminishing the tendency of the mode of punishment to deter men from the commission of crime.

"With respect to the reformation said to result from the present system, my only wonder is that it should ever be expected. The system of assignment is on the face of it only a disguised system of slavery. The assignee's master is bound to feed, clothe, and lodge his servant, as an owner does his slave. This is the wages of both; and if indolent or insolent, both receive the slave's stimulus—the lash. In the present enlightened age slavery is almost universally admitted to have a degrading and debasing effect on the slave. If it was so in the West Indies, why should it be otherwise in Van Diemen's Land; and yet other results are talked of and expected from it.

"In my opinion, the effect is what ought to have been expected. I firmly believe almost every prisoner who is submitted to its operation is deteriorated by it. Every one of them may not be a bad man, but every one was a better one in England. I have directed considerable attention to this subject, and sought information from every available source. I have conversed with Ministers of Religion of various denominations, with Magistrates and Settlers,—and my opinion

has been everywhere confirmed. I hear one say that the prisoners invariably have money which they cannot honestly obtain. Petty thefts are so common that all appear to make up their mind to them. Drunkenness seems in most cases to be only limited by opportunity; and lying and perjury are so fearfully prevalent, that I believe we have the authority of a Judge and Attorney General attached to the assertion, that evidence may readily be obtained sufficient to convict any man of any crime laid to his charge for half-a-crown. My observation has been in a more limited sphere, being confined principally to the question of the death of married parties in England, whose wives or husbands, being separated from them by the rude wrench of the law, are desirous of again entering into the state of matrimony; and here I knew a short time ago the case of a man offering to swear he had seen a woman's husband alive—when another as confidently swore he had known him to have died; and such cases I have been told are common. It may be objected that to take the prisoners generally is to take men who have not yet passed through the course of prison discipline, and who are therefore not to be considered examples of its effects;—and moreover that those who, having obtained their tickets, are promising pupils ought in fairness to be regarded rather than the undistinguished body. But I cannot discover either that the emancipated of Van Diemen's Land evince any moral excellence. They work harder than assigned prisoners, it is true, because they have superior inducements; and on that account they perform almost all the more laborious work, as fencing, &c., it being found *cheaper* to pay them for doing it than to employ assigned prisoners whose wages are only food and clothing. But the magistrates with whom I have conversed generally complain that these two classes, especially the former, are the most mischievous and troublesome of any in the community, because they have greater opportunities for depredation. One of the former class lately tried at Hobart Town,

having been caught in the act of slaughtering a stolen sheep, and who was supposed to have stolen, within the last 3 years, more than 400 from one settler, had brought this maxim from the school of prison discipline—" An old thief must keep his hand in," which he said was his only motive. And of those who have been convicted of murder since my arrival, four I think in number, all I believe have been of these classes who have been let loose upon society as penitent and reformed men.

" Another unfavorable symptom which I have observed, and in noticing which I have found that I am not singular, is that men who have completed their period of servitude, however regular in their attendance before, almost universally absent themselves thereafter from the public worship of God. Indeed under the present system I fear religious instruction and exhortations have little effect. Crowded promiscuously together as they are both in assigned service and in the public works they have few opportunities for reflection ; and the seriously disposed, if there are any, have no protection against their more hardened companions. Besides this, the prisoners I believe generally, look upon themselves as unfortunate and perhaps injured men. They are in no degree able to connect in their own minds their original infringement of the laws of the community to which they belonged, and their being made the slaves of a settler whom perhaps they never heard of before—much less injured. There is nothing in the system to impress upon their minds that they are paying the penalty to society for the injury they have inflicted on it,—or to teach them that society requires, as it may justly require, that they shall give an earnest of their reformation and fitness for re-admission into its bosom. For this purpose society should both exact the penalty, and judge of the fitness for reconciliation as a mother judges her offending children ; but there is nothing of this. A man offends against the laws of the community to which he belongs, perhaps once only, and he is made an outcast, and his labor transferred to

any individuals who will take him. English Statesmen would doubtless express indignation at a proposal that they should *sell* their offending countrymen for slaves; but what is the difference between giving and selling a slave except that one is rather more generous than the other. Besides, I am mistaken if the chief recommendation of the present system is not its supposed comparative cheapness; and does it make any difference in the principle whether we do a thing to save money, or to gain it? I have no means of judging of the difference between the expense of a proper system and the present; but no system can be considered cheap which does not effect the end; and I do not believe one farthing's worth of reformation is obtained by the hundreds of thousand pounds annually expended. And I do not believe such a consideration would weigh with a nation which added £20,000,000 to its burthens in order to free itself from the not more oppressive abomination of slavery.

"The effect of the system of assignment on the masters and mistresses is precisely what might have been expected from it, and is precisely similar to what is said to be the effect of slave holding. When I first heard masters and mistresses of houses and prisoners talking coolly of fifty lashes I was disgusted with the individuals. I am now convinced it is the fault of the system. What I saw in Hobart Town gave me such a distaste for prisoner servants that I came up the country with an establishment of free emigrants. In three months I was obliged to part with the man who was the only bad one out of my four, and as I could not readily supply his place with a free man at such a distance from Hobart Town I took a prisoner for an out-door servant. I have had eight months experience, and that has been enough. I began to feel the effects of slave-holding, and I have given it up. Time will not allow me to say more. I am sorry I have only been able to devote to day to you. I have therefore written in a hurry. If you can make my letter of any service make what use of it you please.

9.—"I regret extremely that pressing engagements have prevented my thanking you earlier for the perusal of your MSS. Papers on Prison Discipline. Wishing to do so at some length, I waited for a moment of leisure; and now that it has arrived I find that I have little to say beyond a general concurrence in your statements.

"You have done such ample justice to the principle on which prison discipline should proceed, and I so fully agree with you in its applicability to this Colony, and in the errors and mischiefs of the present system, that I have nothing to add beyond my sincere wish for a radical alteration.

"I can imagine nothing worse than the unfairness, and inequality of punishment in assigned service, and its inefficiency as a means of reform.

"As a punishment to deter from crime it is absurd, and as a check and punishment on the individual it is a lottery.

"A good or bad master, locality, associates, &c., determine the condition of the servant; and reform is seldom the object, and good treatment seldom the motive of the master. Government can exercise little or no discrimination: and when reform does take place, it is a chance thing. In almost every case, the corruption must be small, and circumstances, not provided for by the system, must be favourable.

"Your plan gives every man a chance, brings out good qualities, suppresses bad, and makes reward dependent on conduct. Not, as at present, when the best man and lightest criminal may be worst off, and his ticket after all dependent on caprice.

"I am not exactly prepared to say how far the Colony would like it. I thought at first it would interfere too much with present interests. I don't think so now; and the example of New South Wales would operate here. Mine is a large establishment. At this moment I am feeding more than —— mouths, free and bond, and I should be under no apprehension of a change. And seeing how the present system

works, how inefficiently for the master, and how unjustly for the man, I should accept any change as a boon. And yet few people have had less trouble. I have rarely had occasion to punish, and on the whole the work has been done well. *Not, however, I admit, by conforming to Government regulations respecting treatment and rewards.*"

10.—"I have read your remarks with great pleasure. I will not venture to criticize details, but I feel confident of their usefulness in developing a great principle in penal jurisprudence. To say the truth, I think the soul of your system is yet too young to possess already all the detail that will be requisite to its practical operation. It is so with all great principles in their early career. They cannot compete immediately with those which have invested even what is wrong with a practical working apparatus of subsidiary morality and wisdom. Yet they are not the less superior for that. Their practical detail will come with their application.

"The distinction between the two great schools of modern Government generally,—that which would develope, and guide, and coerce only *en dernier resort*,—and that which would inverse this process in its treatment of human nature,—is, I perceive, the leading distinction also between your criminal policy and that of your opponents; and the whole analogy of nature shews that *you must be right in the main*. The only question is as to details, and as to the measure in which the operation of your specifics may be controuled by the effects of the stale doses of the ancient political Sangrados on the constitutions submitted to your treatment. You may thus, perhaps, be too sanguine as to *immediate* results; but at all events you do an essential service to mankind by putting forth purer and better doctrines on these important subjects."

11.—"I have read your Papers with intense interest and pleasure, and may say that I so fully concur in them all that

I have scarcely an observation to make on them; nevertheless, I notice the points which have most struck me.

"Your statement of the uncertainty of a man's obtaining a ticket-of-leave, even though a good man, is strictly correct. I have known very many cases where good useful men were prosecuted for trivial offences by their masters, that thus a record of crime being against them they might not obtain their tickets, but be retained in their assigned service.* The converse of this I have also as frequently known,—when bad men have been induced to work unusually hard for a short definite period under a promise of recommendation otherwise undeserved. In the one case an act of the greatest injustice is done to the man;—in the other to society.

"Men otherwise unfit sometimes also obtain tickets-of-leave from the difficulties thrown in the way of masters parting with useless servants. By procuring them indulgence the master becomes entitled to another servant immediately, who may prove a greater acquisition. In all this I must be understood to make many most honorable exceptions; but as a whole I must say that the possession of a ticket-of-leave has not hitherto been a certain criterion of good conduct or reformed habits.

"It is this also which in looking at the system practically has always reconciled me to the insecure tenure by which tickets-of-leave are held. It counteracts in many cases the effect produced by bad masters procuring improper men that indulgence. I have heard masters say repeatedly, "I will get him his ticket, but he will not keep it long; it answers my purpose.†"

* This has been considered even so common in Sydney, that a recent regulation has made it impossible, by requiring all men to whom tickets are due for service to be returned to Government, whether entitled to them by conduct or not;— a simple precaution which ought to be universal.—A. M.

† Blunder on blunder, and again the best men suffering instead of the

"I think, if any, only a *very short* period should be fixed for direct punishment. Many are transported who are neither dishonest nor dangerous, and on whom a *long* fixed punishment would fall very heavy. I have known excellent men transported, perfectly honest and harmless, and who have escaped utter ruin here by the fortunate accident of getting at once into domestic service under a good master. As a system I dislike assignment as much as you do; but like every other lottery it has given out its occasional prizes; and perhaps they have been more numerous than you seem willing to allow.*

"In conveying my general approval also of your plans of Reform I cannot help expressing a doubt whether this Colony will be found to be a fit field to experiment in, or to judge of the general success of your system. Your convicts, after having undergone punishment and probation, and being considered fit to go abroad as free men, will not mix here with an improved and honest population, among whom their good habits are likely to be confirmed, and their general moral feeling increased; but they will be thrown into a society, the great majority of which is composed of convicts who have become free without the preparatory probation and improvement. To men of weak minds, such as most convicts are,

worst, who, on the contrary, gain an advantage. It is thus that an evil principle works. The devices for its palliation constitute only another feature in its demerit. (See text, p. 14.)—A. M.

* On the contrary, I agree with every syllable that my most esteemed Correspondent, who has been many years in the Colony, and knows it thoroughly, has said. I think the period of direct punishment can scarcely be too short, provided it ensure the compound object in view of creating sorrow for the past, good resolution for the future, and enabling a man to know, and choose, companions for his probationary career likely to support and not impede him while struggling through it. The very best will not be injured by such a course. And I willingly admit that the lottery of Assignment has its prizes:—I only object to the penal system of an enlightened people being a lottery at all.—A. M.

this association will, I fear, tend much downwards; and many will be likely to relapse into disused, but not forgotten, habits. Other objections would also be started; and I am, therefore, induced to point out the new and free Colonies on the south coast of Australia, as the proper places in which your philanthropic scheme should in preference be tried, and where alone a correct estimate of its reforming powers can be formed. Even its defects, should such exist, could there be more easily observed and remedied. The emancipated and runaway men from these Colonies, settled in them, must for many years be too few to have any powerful influence on the moral character of their staple population; and forming so small a proportion, widely dispersed, they will themselves be likely to acquire improved habits from the example around them.*

12.—"I agree with you in your general estimate of the superiority of free over bond labor; and my heavy work, as clearing, fencing, &c., I always get done by contract, with, I am persuaded, great advantage. I get land at present cleared for £10 an acre, which is as heavily timbered as some that I am certain cost me, when I first began with my assigned servants, well on to £40. But on the other hand I find my assigned servants do the ordinary work of my farm as well as the best, and I have them much more at command. I have as good farm laborers old London thieves as I could desire; and one of my overseers was a London sweep. *All depends on patience at first beginning, and steady treatment afterwards. It is as*

* A similar suggestion to the above was made in one of the Official Papers opposed to me; and if the object was merely *to prove the system* I should acquiesce in it. But the system is merely a means, and the real object is to improve the Colonies. In justice to the system I should certainly desire to see it tried once at least in the most favorable circumstances; but confiding in it as I myself do, I should be sorry to omit it precisely where most wanted, in the old Colonies, where so much mischief has, as I conceive, been already done by opposite principles.—A.M.

bad to be too indulgent with them, as too strict,—and rather worse."

13.—"I have a large establishment, but only six assigned servants; and I have long resolved to have no more so soon as these get their tickets. I was led to this first by the abuses in the distribution of assigned servants. I conceived that I got no fair play; * * * but I now think I am thus even cheaper. I get land cleared on contract for £2 an acre that I am certain would cost me, with my own servants, £5; and the work is better done, and more carefully, without my looking after it, than all my watching could otherwise effect.

"I have two ticket-of-leave men on my property, who when assigned to me got drunk on every occasion; and at market they will occasionally drink yet; but their general conduct is excellent, and they are both getting rich. They are partners, and live together,—one married, the other single. They rent land from me, and have also bought. The beginning of their reform was the possession of money which they had honestly obtained, and could thus produce, and lay by. I was their banker for some years; I dare say they have now between them well on to £1,000." *

14.—Extracts from a MS. Journal kept without any reference to my enquiries, but lent me, for a short time, subsequently to them.

"The punishments of transportation are indeed many and various. Among the more grievous may be enumerated the

* The above anecdote is instructive in two ways. The beginning of reform was the legal possession of property;—and I think there is no doubt that these men's steady progress (notwithstanding their weakness in one important point), has been materially aided by their partnership. Each labored, and refrained, for another as well as himself. See Note p. 20, and also future Chapters "On different systems of managing convicts," and "On their better qualities."—A. M.

privations to which every prisoner is exposed during a tedious voyage : the annoyances he has to experience after his arrival, during his sojourn in the Penitentiary : if assigned as a bond-servant he has no choice in the selection of a master, yet he must yield implicit obedience to his commands : he has not even the choice of an occupation : he receives no wages for his daily labour : his comforts are very few, and for them he is entirely dependant on his master, who is not bound to allow him any thing beyond the bare rations of food, clothing, and bedding prescribed by the Government : he is constantly liable to suffer summary punishment, on conviction before a Magistrate, whether for intemperance, absence without leave, insolence or any other species of insubordination, or for more flagrant breaches of the law : for repeated misconduct he may be sent to a road-party, chain gang, or penal settlement, where his privations will be greatly increased ; he must have for his companions such other prisoners as happen to be associated with him, however degraded or disagreeable their company may be ; in the midst of all these trials he is continually reminded by numbers around who are free of the sweets of liberty, and, by contrast, of the irksomeness of bondage ; and with reference to prisoners sentenced to seven or fourteen years should also be mentioned the fact that few can obtain the means of returning to their native land, so that to them transportation for a limited period generally proves banishment for life."

" A prisoner may be convicted of insubordination, or insolence, and receive punishment, when some angry or opprobrious speech from his master or mistress may have temporarily excited his passion. And this punishment may be flagellation, solitary confinement, or even sentence to a road-party, in the latter of which cases, if provoked by an unreasonable overseer (such as prisoner overseers often prove) so as to be induced to abscond, it may bring him to a chain-gang, or penal settle-

ment,—absconding from the latter of which brings under sentence of death."

"Most prisoners have a dread of flagellation, and road-parties, and chain-gangs, till they have suffered them, after which the generality exhibit decided deterioration of character. Flagellation, especially, is degrading, and excites revengeful feelings. Solitary confinement has a much better effect: but masters generally prefer flagellation, as causing less interruption to their servants' work."

"Copy of a letter to W. Lyttleton, Esq., Police Magistrate of Launceston, from a prisoner in a road-party:—

'Honored Sir.—Pardon the liberty I have taken in troubling you with this. The unfortunate writer appeals to your worship's humanity as a last resource. I was sentenced to twelve months in ——— road-party, which expired 17th June last: consequently I had finished my sentence when I received six months in irons before you for neglect of work: and now being without shoes, and having been crippled before by working in the gang without shoes, (I have had but two pairs for thirteen months,) I am rendered by punishment incapable of doing what I could when I first entered the gang:—for which reason I am continually coming before you for not doing work enough. Your humble petitioner would take it as an act of humanity if your Worship would sentence me to some other gang or settlement. By so doing, Honored Sir, you will save me from destruction, or an untimely death. Mr. ———, the bearer, applied for me, which has caused a vindictive spirit to be shewn towards me; and I shall continually be brought before you unless you will send me to another place, as I have done my sentence to the party when your Worship sentenced me to irons."

"The practice of sentencing men to work in chains, apart

from the mere purpose of restraint, appears to be contrary to the sound principles of penal discipline. It is a practice beyond doubt borrowed from a barbarous age when these principles were little understood. It has no direct tendency to promote reformation, but on the contrary is calculated to increase desperation of character: and it is part of that system of abstract vengeance which man is not authorized to inflict on his fellow-man. While such punishments fail to deter from crime in the Mother Country their tendency is decidedly to increase it in the Colonies. We cannot, therefore, but lament the promulgation of the late regulations by which numbers of men have been sentenced to work for long periods in chains without having committed any offence subsequent to conviction in England; and we cherish the hope that no chain-gang will long exist, unless for the purpose of securing incorrigible runaways."

"The accommodations for assigned servants are usually far removed from comfort. They generally live six or eight together in huts, constructed of logs, apart from the dwellings of their masters, having wooden shutters instead of windows, and inferior to the commonest stables in England. They are frequently so open to the weather as only to be rendered habitable, even in the fine climate of Van Diemen's Land, by means of large fires of wood. They are generally untidy and dirty; and the sleeping accommodations are of the meanest kind."*

* One of my Correspondents adverts to my observations on this head, and denying some portion of the picture, justifies the remainder by saying that the Settlers themselves are not yet well lodged. But they have room, and air, and light (by sashed windows), and floors, and all other appliances for cleanliness, which the assigned servants want. It is not either the physical discomfort thus entailed, to which I object, but the moral. Long beards and total neglect of appearance accompany such arrangements; and in the strong words of a known proverb "Cleanliness is part of godliness."—A. M.

"There is necessarily great variety of character among the settlers to whom prisoners are assigned, and consequently they are exposed to an equal variety of treatment. A few masters attend to their moral and religious instruction; many treat them with some degree of kindness, combined with judicious firmness; a large proportion treat them with disdain and harshness; and a few are still more unreasonable and severe. The incitements to moral reform are thus brought to bear very unequally on them as a body."

"The very general disposition on the part of persons transported to regard themselves as aggrieved is greatly to be regretted, because such a feeling is hostile to reformation. Yet when the severity of the punishment is contrasted with many of the comparatively trivial offences to which it is attached, it cannot be denied that there are cases in which some grounds exist for such a feeling; and these cases afford convincing proof that a punishment disproportioned to the offence, and which is, consequently, a violation of justice, *tends to frustrate its own object*. This remark applies to many of the Colonial punishments."

"The practice of mustering prisoners holding tickets-of-leave once a quarter is attended with many disadvantages. Many of these persons have so strong a propensity to indulge in drinking spirituous liquors that they fall into the temptation almost as certainly as it comes in their way. Conscious of their weakness some of them engage in situations remote from public-houses; and in the interval between musters conduct themselves in an orderly manner. But being from ten to twenty miles, or more, from the place of muster, they have to leave their homes once a quarter for one, two, or three days, to present themselves at the place appointed, which is generally contiguous to a public-house; and few of them return to their work without having been intoxicated. Vicious associations

are thus also frequently compelled; the best behaved are levelled, both in appearance and reality, with the worst; and under all these inciting causes misdemeanours are often committed which deprive otherwise good men of their hard-earned indulgence of a ticket-of-leave."

"Some of the provisions of 2 and 3 William IV. chapter 62, entitled "An Act for abolishing the punishment of death in certain cases, and substituting a lesser punishment in lieu thereof," were they carried into full operation would have a very detrimental influence on the reformation of prisoners. To prohibit those from holding property who had by good conduct obtained tickets-of-leave, would have a great tendency to drive them to spend their earnings in profligacy and drunkenness. To extend this prohibition to those whose sentence has expired would be to make transportation of seven or fourteen years confer a disability for life, which would be opposed to every principle of justice. And to preclude prisoners holding tickets from suing or being sued, is on the one hand to expose them to be robbed of their wages, and otherwise imposed on in a way that would make a ticket-of-leave an evil rather than benefit,—and on the other hand to enable them to commit fraud with impunity."

"The prevention of crime is not to be expected in any great degree from the dread of punishment, *but rather from counteracting the causes which lead to the commission of crime.*"

I could multiply much farther these extracts, for my materials both in letters and journal are ample, and I may yet introduce other passages from both as notes to succeeding portions of my representations. But my object now is sufficiently answered by thus shewing that I am not singular in my opinions, —that many see as I see, and reason as I reason,—and that the light of discussion is breaking in at once from many

quarters. I add only three more documents of a different kind; but which have a value peculiar to themselves.

"Extract from a Copy of a Despatch from Lieutenant Governor Arthur to the Right Honorable T. Spring Rice, dated 20th April, 1835.

'It is, as I have submitted in my despatches upon the subject, impossible to deny that there are many evils necessarily incident to this Colony, from its being made a depôt for convicts. The most sanguine advocate for the punishment of transportation must admit that the peopling of a territory with culprits under the sentence of the laws, if considered in the abstract, is an evil. The habits, the propensities, and the circumstances, of such a degraded class must, in the nature of things, have a tendency to *much that is bad.*"*

"Extract from 'Proceedings at a Public Meeting, holden at the Court-House, Hobart Town, on the 28th February, 1835, pursuant to a Requisition.'"

* I have inserted the above because, however cautiously and reservedly, it asserts, equally with myself, the existence of Social evils arising from the existing Penal constitution of the Colony:—an assertion still more unqualifiedly made in the document following it, which is signed, among others, by some of the most respectable and intelligent of the Settlers themselves. But I directly dispute the solution which it furnishes of the fact recorded:—for, on the contrary, I think much better of the *composition* of Society in the Penal Colonies, than I do of its *combination*. Many bad men, no doubt, come out to them; but they might all be made better, and the vast majority, I am persuaded, might even be made very good. But we first place them in a demoralizing position, in which they get worse from day to day:—the poison re-acts,—and we lay the blame on them. It would be easy to be a Statesman if we might thus devolve his responsibilities on the materials under our hands.

I recur to this subject in the next chapter. Its omission appears to me to vitiate, and render erroneous, the whole of the present popular argument in England against Transportation as a Secondary punishment, and Penal Colonies. I conceive it to be of immense practical bearing and importance.—A. M.

'1st Resolution, moved by J. T. Gellibrand, Esq., seconded by Mr. James Thomson :—

'That emigration to this Colony was in a great degree induced by the hope and belief that its penal character would be either *modified* or *removed;* instead of which it has lately increased to a fearful extent, *thereby violating the feelings of the present, and barbarizing the habits, and demoralizing the principles, of the rising generation,* and tending essentially to check future emigration."

"Prayer of the Address."—'Your Majesty's humble petitioners most respectfully pray of your Majesty to be pleased, in your paternal goodness, to remove from the Colony of Van Diemen's Land, the *degradation, and other unspeakable evils, to which it is subjected in consequence of its present penal character.*'"

(Numerously and respectably signed.)

Another Extract from a Letter from Messrs. Backhouse and Walker :—

"After much consideration during the course of the last few months on the practicability of carrying thy system of Penal Discipline into effect, we still remain of the judgement that there is no insuperable difficulty in the way, And we are also of the opinion that it would be much better to try it here or in New South Wales than in a new colony : and that for such an experiment Van Diemen's Land possesses many advantages, the population being more condensed, in better moral order, and the open land more generally located.

We have also conversed with several intelligent Settlers in this Colony on the principles involved in the proposed system, and have found many ready to acknowledge their superiority over those of that now in operation :—to the inconveniences of which they are far from being insensible, as is evident from

the very decided conviction that is gaining ground among them that the labor of Ticket-of-leave men is more advantageous than that of Assigned convict servants. The Colonists generally, we apprehend, are prepared to expect some material change in the Penal Discipline: and the public prints have within the last few years favored the supposition that the British Government contemplated even the withdrawal, altogether, of convict labor from the colonies.

"JAMES BACKHOUSE

"GEORGE WASHINGTON WALKER."

ON THE REPORT THAT PRISONERS SHALL IN FUTURE ONLY BE SENT TO VAN DIEMEN'S LAND; AND ON TRANSPORTATION AS A SECONDARY PUNISHMENT, AND MEANS OF COLONIZATION.

Since the preceding Summary was written a report has reached us here that the Home Government proposes to discontinue sending prisoners to Sydney, and thinks of confining them entirely to this Colony. I think this impossible; for the idea seems so opposed to sound principle that it could scarcely for a moment be entertained. Yet as the evils which would flow from acting on it seem to me very great, while the benefits to be derived from pursuing a directly opposite system are not less striking,—a few words may be well bestowed in expressing my ideas of both.

To concentrate all transported criminals in one place seems opposed to the ordinary maxim, *divide et impera*. It would deprive all other places of the benefits to be derived from a judicious and proportionate employment of criminal labor; and, like the Ganges turned into the husbandman's garden, it would overwhelm the selected spot with all the evils arising from its excessive supply. It would convert it into a mere gaol;—and as it would be impossible to maintain long a fair proportion of free settlers in a community so characterized, or for those who are so maintained, and situated, to retain long a high sense of moral and virtuous feeling, (amidst the contamination alike of a large prisoner population,

and of the means by which an undue proportion of it is generally thought to be most easily and certainly kept in subjection), in a short time the maintenance, employment, and reform, of the prisoners would be cast, each almost exclusively, on the Government. In Van Diemen's Land, at the same time, circumstances are unfavorable for undertaking such a charge. Provisions are high;—already labor finds a difficulty in obtaining immediately beneficial employment;—and from the moral injury inflicted on the free population by the existing convict system (and some other causes), the influence of only a few settlers (comparatively) in weaning the prisoners from bad habits, and accustoming them to good, would not be great, and would probably, for a time at least, be found proportionably even less than anywhere else, not excepting Sydney itself,—because that system (and these other causes) having been carried out more vigorously in Van Diemen's Land than elsewhere, have produced amongst us a proportionately greater amount of social and moral injury. (I know that this is not the usual opinion, but it is decidedly my own impression. In New South Wales there is, perhaps, more open profligacy; but in Van Diemen's Land there is considerably more dissention and individual bitterness of feeling;* and I would rather contend with the first, as a social characteristic, than with the second,—and would sooner

* The greater moderation of the Sydney than of the Van Diemen's Land Press is one proof of this; and there are many more. New South Wales exhibits the results of a comparatively lax,—Van Diemen's Land of a comparatively strict, administration of the same bad system in both; and the choice is between different sets of social evils, proceeding from different modifications of the same mischief-working cause.

expect assistance from those exhibiting the former, than the latter.)

My conviction then is, that to send in future all transported criminals to Van Diemen's Land, especially if unaccompanied by a prodigious improvement, or rather radical change, in the mode of treating them there, would be shortly to make that Island a mere earthly hell,—most expensive to maintain, and most cruelly unproductive of all the results which ought to be expected from a penal settlement. Instead of such a measure, therefore, I would earnestly recommend that the directly opposite one be adopted,—and that in place of concentrating all transported criminals in one, or even two places, a moderate Convict establishment be attached to every suitable British Colony, (certainly every Australian or future Polynesian one,) to be placed, each respectively, under the charge of a competently instructed individual, whose task it should be, on the principles above laid down, to *punish*, *train*, and eventually *restore* criminals to society, as severally prepared under his hands to resume their places in it. The advantages to be derived from such a plan seem to me very great indeed. These Superintendents should be required to correspond, at fixed periods, through the respective local governments, with the Home Secretary in England,—in whose office the subject of their reports should constitute a specific department. They should detail their proceedings, success, and (as the best test of this) the *movement of crime generally* in their respective colonies. They should be required to reason on this, and point out the circumstances to which they attribute its occasional irregularities; and thus, while the colonies (besides the physical strength which would

be placed at the disposal of their several governments, and ultimately of their proprietors when the men came on their tickets-of-leave,) would further gain by having their Criminal annals constantly subjected to a scientific examination, and the moral influence of their respective systems of domestic policy constantly and rigorously scanned,—humanity, and the science of criminal legislation, would gain still more. Instead of being condemned to further deterioration of character—(too severe a punishment for any offence, and to which all transported criminals are at present,—and would still more certainly become subject, if, without other change in their treatment, they were crowded together in one colony), men under this system would be sentenced to almost certain improvement of character;—and this consummation (every thing connected with it considered), being worth purchasing for the unhappy beings who constitute the mass of our criminal population by almost any process, however severe in its physical details, and apparently disproportioned to an early minor offence, a wholesome rigour to such, most beneficial to the community, but at present most destructive to individuals, would become enlightened benevolence to all. The Superintendents of the several establishments would meanwhile be, as it were, pitted against each other;—and their theory, practice, and success, being all exposed, the utmost possible improvement might soon be expected in the abstract science of management. *Facts* would be gained, where at present much is *conjecture;* new views of human nature, the subject of all political reasoning, would be elicited; and theories of crime, and of human action generally in every variety of circumstance, being *sub-*

stantiated or *refuted*, which are now merely deemed plausible or the reverse,—the best foundation would be laid for Criminal, and indeed all other, legislation, —for by far the most interesting aspect in which any measure of domestic policy can be considered is its *moral* influence on the community amidst which it is to work.

I own that I like Transportation as a Secondary punishment. It appears to me that when a man has once been brought to open shame in any community, his only chance of complete recovery from the habits and tendencies which have led him to it consists in a removal from the scene of his offence,—from the temptations which led to it,—the evil companions who shared in it,—and the harsh witnesses of its exposure. The community has no doubt a right to demand from him an example, as of lawlessness, so also of its consequences;—but even in this light I think Transportation capable of being made much more effective than any Penitentiary system,—the *real value* of which, on the contrary, I venture to *question* in all its aspects, both in principle and in detail. I doubt, for example, the benefit, usually so much insisted on, of a community actually *witnessing* the punishments inflicted on transgressors of its laws. If only known to be *certain*, and moreover, that, on my plan, they will terminate only on adequate proof of reform, (for the recognition of this certain triumph of the law over individual obstinacy in all cases seems to me very important), I think that direct punishments are even better *not* seen. Public Executions, Stocks, Pillory, Chain-gangs, and all other extreme cases of them, undoubtedly demoralize; and their gradations, in proportion, I am per-

suaded, do the same. But besides this, I also doubt extremely the expediency of imprisonment, and especially solitary imprisonment, if long protracted, as a punishment at all. It is well, perhaps, for a time, and in certain cases, in order to subdue refractory spirits;—but where a man cannot do evil, he cannot either do good. Some liberty of choice, some freedom of action, are requisite to give to conduct either character; and both are excluded from a prison. Man also is a social being;—his duties are social;—and only in society, as I think, can he be adequately trained for it. His labor, too, is mostly useless in a Penitentiary,—or noxious as interfering with the ordinary labor market;—and when released from one at home he is liable at every moment to be recognized, and excluded from happier prospects in after life, by the severity with which it is to be hoped that society in England will long regard convicted offenders. He may be thus driven back to a reckless perseverance in evil habits, when perhaps just escaping from them; and his after transgressions may be worse than the first. With all these opinions, then, strong in my mind, I may perhaps regard the possibility of modifying and improving Transportation, so as to make it a suitable punishment for almost every offence, with too favorable an eye;—and that of equally accommodating the Penitentiary system to the varied shades of crime with one too strongly prejudiced against it. Yet, as I have here depicted them, and I am not conscious of error in the delineation, I cannot for a moment place them in comparison; for neither in its contributions to humanity, science, punishment, example, or reform, can imprisonment in a Penitentiary, as I think, be considered equal to well arranged Transportation. The

latter, like the judicious process of transplanting in a garden, seems calculated to recover many a sickly plant, and give it even more than its original health and vigour, removing at the same time noxious and inconvenient neighbours, and thus giving health and vigour also to the remaining produce of the seed bed, (where, undoubtedly, to drop metaphor, much of the existing crime proceeds from the excessive competition in its labor market,—and in which, accordingly, the discoveries made by convictions of petty offence seem, almost of themselves, to point out those who should be removed, those whose moral strength is unequal to the struggle in an old country, but who may be yet quite equal to the emergencies of a new one). While, on the contrary, the best conceivable modification of the former seems to me only to aspire to blanch a few acrid stems, many of whom resist even this process;—and though the remainder are thereby, perhaps, better fitted for certain domestic purposes, their original and inherent powers are only by so much weakened, their energies sicklied, and their native character subdued,—not cultivated, or applied.

And this leads me to another portion of the subject, on which I almost scruple to enter, though some notice of it seems at the same time expedient. Colonization has of late years attracted much attention, and obtained much encouragement at home; and besides the public efforts made to assist it, several private Companies have been formed with the view of promoting it,—one of which is settled in South Australia. It is remarkable, however, that generally these Companies refuse to receive prisoners, and desire to confine their efforts exclusively to the deportation of virtuous, or at

least unconvicted, individuals;—the leading persons in such associations being not unfrequently even among those most opposed to Transportation, as a Secondary punishment. (Strange gardening!—equivalent to that which would remove healthy plants from a situation in which they thrive, and retain those to which the aspect, or other circumstances, appear unfavorable.) But the mistake is a painful one, and appears to me even mischievous. It proceeds also, as I think, from a contracted view of human nature, and a confined interest in its welfare;—and it has carried, and, I have little doubt, will yet carry, its own punishment with it. The settlement at Swan River has suffered from the want of prisoners, and of the Government expenditure connected with them; and unless the South Australian Commissioners open their hearts to the further (almost divine) object of making their Colony a school for the recovery of social weakness, as well as an example of the efficacy of certain principles of Colonization, I am persuaded that they will suffer also. Their situation is a peculiar one. So near Penal Colonies, if they will not take prisoners regularly, they will certainly get them irregularly,*—without the apparatus by which to restrain and improve them. And besides this, it is a mistake to think that good people at home will necessarily be good people abroad. *Le mieux est l'ennemi du bien.* Those who are doing well at home, and feel no strong impulse of themselves to leave it, had better be suffered to remain in it; while, on the contrary, it is those who are doing ill in it, and thus shew their unfitness for it, whom it should be the care of the en-

* Adelaide is said to be already full of them.

lightened and philanthrophic among their countrymen advantageously to remove. Nor would the *moral* effect of this, either at home or in the Colonies, be necessarily, I am persuaded, bad, if other *arrangements were made suitable*. Young and enterprising capitalists will always flock abroad. They will be accompanied by their own selected servants, probably of corresponding characters; whose passages out might be made free, to encourage masters thus to take them, but who should receive no other direct inducement on the part of Government to emigrate. These two classes would constitute the first in all the Colonies, and transported prisoners the last; but even in them, under improved management, there will be found, I am persuaded, a mine of national wealth, and *moral worth* also, as yet almost entirely unexplored, and which will astonish those who have only speculatively considered the subject. There are some good even among the present prisoners *(mirabile dictu)*; and there will be many better when they are not sought to be punished by *degradation*, or in other words *deterioration;** and when the steadily contemplated, and *pursued*, objects of prison discipline shall be, having punished, to recover our fallen brethren,—having subdued, to raise, and not for ever to trample on them. There is false reasoning, and even false observation, I am persuaded, at present regarding the unhappy victims of our laws, almost throughout. The temptations of a dense and highly artificial state of society are familiarly under-rated. The amount of depravity sufficient to reconcile to the commission, of *petty* crime especially,

* See a future chapter on Degradation as an element in Punishment.

is over-estimated.* The virtuous do not think enough of the favorable circumstances by which the principles, even of the best of us, are but too often almost alone supported;—and we give up hope of being able to retrieve the human character when depraved, partly because we over-estimate the depth to which it has fallen,† and partly because of difficulties arising from our own fault,—our own unworkmanlike method of setting about the task. To a religious mind the mere circumstance that a man is *still alive*, still continued by his Maker in a state of probation, should *prove* that he is yet recoverable;—and, in truth, we cannot doubt that half the crime of society is the crime of circumstances, and that to change these, is to change the exhibitions of character altogether. The energies which make law-breakers at home, and which now writhe, and rear themselves, in all the forms of convict recklessness and profligacy,‡ under the pressure of a cruel and demoralizing system of treatment, would under proper direction invade the forest and virgin soil of

* "Si quelque chose peut faire excuser le crime c'est le besoin. D'où viennent donc votre severité envers les criminels pauvres, et votre indulgence pour ces grands scelerats qui n'ont aucun besoin—pour qui le bien est si facile à faire, et qui font le mal?"—SAY.

† "The idea that persons transported are so depraved that they cannot be at large without danger to the public must be received with much limitation. The safety of person and property in Van Diemen's Land affords collateral proof of this position, and of the justice of the sentiment that many of them are criminals rather from the peculiar circumstances in which they have been placed than from their own confirmed depravity. And the attentive enquirer will be led to take this view also by an acquaintance with their history."—MS. JOURNAL.

‡ "Multae virtutes in vitia degenerant: et quod magis est, sæpe videas eosdem affectus, pro temporum sorte, nunc virtutes esse, nunc vitia."—BARCLAII ARGENIS,—as quoted in "*The Statesman.*"

these Colonies with a power as yet unexampled;—and finding a legitimate sphere in which to expend themselves, would be as likely to furnish examples of *moral* integrity also, as the very best unconvicted that can be induced to leave their native shores.*

I earnestly deprecate, then, whole communities of prisoners,—or any application of their labor as domestic slaves,—or any thing, indeed, even approaching to the existing mode of treating them. But to this protest against Transportation, as now known, I would join the earnest expression of an opinion that as a means of Colonization it has scarcely less interest than as a branch of criminal law. And there is a fitness of the same means to serve very opposite ends in the subject when thus considered, which seems to me no small collateral proof of the accuracy of the views advocated in it. For England does not want to rid herself of her good, but of her bad;—and young colonies do not want staid citizens,—men trained amid the comforts, and attached to the indulgences, of an advanced state of society,—but, for their laborers, such as do not think highly of themselves,—who have already known suffering,—who will be content with good treatment though accompanied by hardship,—who have a strong motive to continued exertion,—and who will not (cannot) turn back on the first appearance of difficulty or danger.

* "Ce qui est en honneur chez les hommes est souvent digne de leur mèpris, et ce qui est meprisè d'eux merite souvent d'en etre honorè.—*Mais Dieu est juste.*"—SAINT PIERRE.

(I would not by the preceding quotations be understood as under-valuing the essential distinctions between moral right and wrong. But I am certain that we for the most part regard with far too much severity the offences of the lower classes of criminals; and we injure both them and ourselves by indulging in this Pharisaical error.)

ON DIFFERENT SYSTEMS OF MANAGING CRIMINALS.

A book has lately been sent out here by the Secretary of State, containing a Report by the Inspectors of Prisons in England on the comparative merits of what are called the *Silent* and *Separate* Systems of treating criminals. The Inspectors give a strong preference to the latter. They argue that the former, under which prisoners are worked together, but compelled to maintain unbroken silence, and refrain even from indirect methods of communicating with each other, is so directly opposed to the natural tendencies of social existence, that it can only be maintained in some degree of efficiency by extremely minute regulations, enforced by disproportionately severe punishments;—and in the objection made to this I most fully concur. Nothing can produce a worse moral effect than a striking and obvious disproportion between the quality of an offence committed, and the degree of punishment awarded for it. It induces resistance, and a feeling of injury and injustice inflicted. It effaces, in appearance, the distinction which a wise statesman will study rather always to preserve broad and distinct, between *moral* and merely *conventional* offence. And it is thus, in truth, precisely one of those faults in the system of Convict discipline now prevailing in the Penal Colonies which I have elsewhere strongly pointed out;—and which, I am confident, will in a short time unite against

it the good sense and good feeling of all classes of reasoners in relation to it.

It appears to me, however, that in thus according a preference to the *Separate* over the *Silent* System, the Inspectors have been induced to over-rate the true value of that which they recommend. They seem to think it calculated to accomplish all that is required in the case, namely both *punishment* and *reform;* and this I think impossible. (I have already adverted shortly to this point, but am glad of the opportunity of recurring to it.) Solitary imprisonment may *punish* a man,—and subdue his mind,—and cause in him *penitence* for the past, and the *wish*, or even the *resolution*, to avoid in future the line of conduct which has been followed by such bitter consequences;—but it cannot fortify the ability to carry such resolution into effect, and on the contrary must weaken that ability, enervate, and depress it. The mere feeling of helplessness, which continued solitary imprisonment must produce, is enervating;—the exemption from temptation consequent on it, is of the same character;—and where but one line of conduct can be pursued for any length of time no habits of self-denial, of resistance to temptation, of choosing the better course when a worse is presented, can be formed. Even a feeling of inexperience and personal timidity is generated by long seclusion, fatal to independence of conduct and character in succeeding cases of trial. A man issues from confinement like a child; and like a child is swayed, coaxed, cheated, and bullied, for a time, by all about him. Can this be a school for future good conduct, even where the general impulses of society are towards good. And much more, can it be an adequate school for criminals, who,

withdrawn from vicious associations to pass through it, at home necessarily return to them on their discharge, —for there the better of all classes of society reject them?

Several important conclusions seem, then, to flow from these premises. Solitary confinement may be a good *first* step in a course of Secondary Punishment;—but it is not alone sufficient to carry out all its objects. It is tried most unfavorably where the criminal is discharged from it to mix with his old associates;—but wherever tried, it ought to be followed by an adaptation of external circumstances, in the society immediately afterwards mixed in, calculated, as much as possible, to foster whatever good resolutions may have been formed by it. This adaptation cannot be commanded in the world at large; and it should be sought therefore by associating the criminals themselves,* *subsequent to their imprisonment*, in the most favorable circumstances for their mutual improvement. Or, in other words, at least subsequently to, but I would say in many cases even preferably to, the *solitary* system of treating criminals, a SOCIAL system of managing them to advantage is imperiously required; and the discovery of such is one of the greatest *desiderata* now existing in penal science.

"Man is a social being; his duties are social; and only in society, as I think, can he be trained for it."

* "Certains moralistes vous disent, *Etouffez vos passions*:—mais les passions ne s'etouffent point, pourquoi toujours des preceptes? Prenez l'homme tel que le Createur l'a fait; et avec l'homme, tel quel, composez une société plus supportable. C'est impossible, dites-vous. Avant que les ballons fussent inventés, on disait de même, il est impossible que les hommes franchissent l'espace des airs."—SAY.

I have used these words elsewhere (p. 60), but they are here again applicable. In opposition to them an almost universal impression, I know, exists, that the association of criminals together is necessarily deteriorating. But is this true? It is a fatal objection, I admit, to any *Social* system of treating them, if really well founded;—but by so much as, in such case, it is conclusive, its correctness should be deliberately considered; for if a delusion, it should be at once set aside.

There are many bad men among sailors and soldiers, and few of either pique themselves on the highest character of moral principle. They are also closely associated together,—with few family ties,—and thus in the greater number of external circumstances they closely resemble prisoners,—being moreover subjected to very strict conventional rules of conduct. Yet as a class they do not "contaminate" (as the Inspectors' report calls it), or make each other worse,—neither is the worst man among them (the most turbulent, insubordinate, or otherwise troublesome) their leader, or copy, among themselves,—but quite the reverse. Here, then, is a case nearly in point as to general circumstance; yet varying so widely in result, that, whatever may be the difference of incident between them, even though apparently minute, it is worthy of attentive consideration,—for it obviously involves some important principle.

The chief distinctions between sailors and soldiers on the one hand, and prisoners on the other, seem to me to be,—first, that the object contemplated in the union of the former is an honorable one, and their *esprit de corps* is therefore towards good, rather than

evil;—and secondly, that their system of organization, (though susceptible, I think, of improvement in this particular), is yet, on the whole, of a *Social* rather than *selfish* character. They have objects in common;—and the interest, and in many cases even the safety, of all, are connected with the faithful and zealous discharge by each of the duties assigned to him. The social virtues of mutual kindliness, attachment, self-denial, self-devotion, self-sacrifice even, where required, are thus in honor, in respect, in a constant course of cultivation, among them;—and they carry with them in their train many other virtues for which otherwise the school would not be favorable. If we could but in any material degree assimilate the condition of convicts with theirs in these points only, we would, I am persuaded, produce a change in the spirit of these unhappy victims to their country's laws, which *à priori* many will consider impossible.

I come then now to speak of my own system. It appears to me to acquire additional interest when viewed in connexion with these remarks. I do not pretend to say that it is without fault;—or that in a moment it would work a magical change in the hearts and lives of long practised offenders. On the one hand, it may not be the best modification of *Social System* that can be devised; and on the other, no one will more readily admit than myself, that, however perfect in its organization, it contemplates an object of most difficult attainment, and only thoroughly to be compassed by patience, perseverance, and *religious* and *moral culture*,—the latter of a kind requiring to be varied according to circumstances, and of which the spirit alone, not the letter, can thus be prescribed.

Like every other human arrangement, also, its success in particular cases must depend somewhat on the character of the agents employed to work it; and in the commencement especially, while these are as yet inexperienced, and while the details would be new also to the prisoners, and they would equally be unprepared to fall into, and be influenced by them, it would be folly to expect that it should operate as a charm, or that it should be found to have come forth, Minerva like, perfect in its machinery, and without requiring modification in any of its details, from the head of its projector. BUT IT IS A SOCIAL SYSTEM; and in this light, as distinguished from a *Separate* one,—and still more from the present, which is an intensely *selfish* and demoralizing one, I confidently maintain that it is founded on better principles. It is more in harmony with human nature than either of them,—more powerful in its machinery,—and more calculated, accordingly, to produce a lasting effect on those subjected to it. It is also higher in its aims. It desires to *influence*, not merely to *coerce;*—to influence *whole classes* also, not merely *individuals;*—to give to each well-intentioned criminal the support and sympathy *of his fellows* in a *virtuous* career, not merely to deter him from following bad examples, or to seclude him from their (supposed) noxious influence;—to prepare him thus for society, in society, not to sequester, and unfit him for it;—and to nourish his good resolutions by a systematic *esprit de corps* in his class,—not to sentence him to the most painful and difficult of all possible tasks, the steady resistance of the impulses which, in existing circumstances, his companions are alone calculated to convey to him?

These views, then, are ambitious; yet it is by them

that I am willing, and even desirous, to have my several proposals for the amelioration of the treatment of prisoners tried; and I repeat that they seem to me to acquire new strength and new interest when so connected. I first suggest that the two objects of Secondary sentences, namely *punishment and reform*, should be separated, and each distinctly contemplated, and pursued. The endurance of direct punishment can never be honorable;—but penitence under it is at least creditable;—and an earnest endeavour to recover lost ground is honorable. The men, then, being first *punished for the past*, I next propose that they should come out on *probation*, or *training for the future*, in parties of six, who should choose each other, and rise, or fall, while undergoing the process *together;*—and the objects contemplated in this arrangement are various, yet all of a *Social* character. Even while the men are undergoing their direct punishment it will give a value to the *Social* virtues; because if a man does not recommend himself to his companions during this interval by good conduct, at least towards them, and by a reasonable promise of behaving well afterwards while on probation, he may not find five others willing, when he is otherwise qualified, to run their several chances with him. It will also prevent favor, or prejudice, on the part of an overseer, from influencing a man's fate;* because when his period for punishment is expired nothing should keep him in it, (short of a judicial extension), if other five men are willing to join with him;—and, on the contrary, nothing but a very

* It may be thought that this will be an individual, rather than social, advantage;—but not so. Nothing disunites men so much as caprice, or favoritism, in dealing with them.

special exercise of supreme authority, very strongly called for by very peculiar circumstances, should release him without. It will thus sift the prisoners from the beginning, leaving the absolutely incorrigible behind on the unexceptionable verdict of their own companions, interested in justly appreciating their characters;—at the same time subduing the obstinacy of many who in existing circumstances are considered hardened;—and giving an early tangible value to good conduct, and to the suppression, concealment, and mastery of evil dispositions and intentions, at present, on the contrary, too often rather a subject of private boast. On passing into probation it will have other good effects. By associating several together in one fortune it will give them interests and feelings in common, which are at present altogether wanting. It will give each man a direct concern in the good conduct of his fellows,—a highly advantageous circumstance, associating all with the Government in the maintenance of discipline,—instead of, as now too often occurs, an interest in encouraging, and subsequently revealing, the crimes of others,—a most detestable feature in the present system.* Without making any of the prisoners constables, (a thing necessary at present, but abstractly,

* "To set a price on the head of a criminal" (or otherwise on a great scale reward the informations of accomplices) "is the strongest proof of a weak or unwise Government. He who has strength to defend himself will not purchase the assistance of others. Besides, such an edict confounds the ideas of virtue and morality, at all times too wavering in the mind of man. *It encourages treachery, and to prevent one crime gives birth to a thousand.* Such are the expedients of weak and ignorant nations, *whose laws are like temporary repairs to a tottering fabric.* Laws which reward treason, excite clandestine war and mutual distrust, and oppose that necessary union of morality and policy which is the foundation of national happiness and peace."—BECCARIA.

and in principle most improper), it will make them all *Mentors*, entitled to advise, restrain, instruct, and influence their neighbours to good by every means in their power, and by the most forcible of all arguments, the consideration that misconduct will injure others as well as the individual appealed to. The system will be one, therefore, of "Mutual Tuition"; and, I have no doubt, will rapidly make better men, even of the very indifferent, precisely as that, when applied to intellectual instruction, rapidly makes fair scholars even of the most careless. My next suggestion is that the direct punishment for the past should be measured by *time*, but that the probation should terminate only on the literal fulfilment of all its conditions. Only sustained good conduct will thus release a man, once convicted, from the restrictions consequently imposed on him. Endurance will not serve him ;—nor escape from detection,—nor any thing short of positive merit, exemplified both in his own good conduct and his success in bringing others through with him. The law will thus be exhibited in every case triumphant; and a true desire to pursue good will be infused into all,—a right *esprit-de-corps* be generated,—and, an absolute necessity for certain virtues being created, Society will, as in every similar case, certainly produce them. (In every association the qualities are found which are specially wanted,—which it is the interest of all to encourage; nor is it possible to admire too much, or *trust too confidently* to this admirable flexibility given by the Great Creator to the human mind, the result of that Reason with which it is endowed).* Lastly, I suggest that

* See a subsequent chapter, "On the better qualities of Convicts."

both the processes, of *punishment* and *training*, should be undertaken systematically by the Government itself, not confided to the chance hands of Settler-masters;—and that when the men have gone through them, and at length come under the general population, it should be on tickets-of-leave, with reasonable security for their preservation. I would not destroy all by making *Slaves* of those whom I have thus anxiously improved;—they should neither be assigned, nor hold their indulgence at the will of a malicious constable, or a single irritable magistrate. For a time they may with propriety be subject to a somewhat stricter law than free men;—and their privileges of holding property, and setting up as masters, may also grow with their continued good conduct;—but the justice administered to them should be fenced by the same guards as those claimed by the very highest. There should be no discretionary authority,* no summary judgements, and as few conventional offences as possible. Human Virtue can neither wield arbitrary authority, nor be subjected to it, without deterioration; and in the eye of Reason and Reflection it is difficult to say which are most offensive,—the seeming virtues or the declared vices of such a system—the capricious indulgence and crawling obedience which it sometimes generates,—or the bullying arrogance, designing knavery, and reck-

* "There is nothing more dangerous than the common axiom, *the spirit of the laws is to be considered.* Every man has his own particular views, and at different times sees the same objects in many different lights. The spirit of the laws will thus be the result of the good or bad logic of the Judge, his good or bad digestion, the violence of his passions, the rank or station of the accused or accuser, and all such little circumstances which change the appearance of objects in the fluctuating mind of man."—BECCARIA.

less insubordination, which are its more usual exhibitions.*

These latter remarks may perhaps appear warm;—but it is not easy, in this place, to think intently on this subject, without being carried away. I conclude with repeating my conviction that a *Separate*, or any other *unnatural* state, to which a criminal may be sentenced, cannot operate so advantageously on him as a well contrived *Social*, or other *natural* state;† and that the latter has the further advantage of operating on multitudes, with the aid of multitudes,—whereas the other operates merely on individuals, without assistance of any kind, and in opposition to all the natural impulses. It has been said to have been the secret of Buonaparte's success in war that he thus operated with masses, upon masses,—deriving benefit at once from the influence of numbers in carrying on to victory and in precipitating towards defeat. And I do not think the analogy a forced one which would

* "Plus les hommes sont miserables, plus ils sont vils, rampans, fourbes, et desordonnés."—SAINT PIERRE.

"In my own defence I made all the excuses I could think of; and from excuses I went on to all kinds of deceit; *for tyranny and injustice always produce cunning and falsehood.*"—EDGEWORTH.

† "Quelle sotte, imparfaite, et insuffisante morale que celle qui vent contrarier la nature de l'homme et des choses. Le vrai moraliste est celui qui ne travaille pas contre la nature. Le Createur a donné à l'homme certaines dispositions; voilà une chose de fait, nous n'y pouvons rien. Si le moraliste cherche à rabaisser et à detruire ces dispositions, elles se reproduiront jusque dans les austerités du moine et du talapoin. Mais s'il arrange les choses de manière qu'on tire de merite à bien remplir ses devoirs envers ses concitoyens et sa famille,—a tenir ses engagemens avec scrupule,,—à ne pas depenser plus qu' on a,—à se tenir propre de sa personne,—à donner un aspect riant et soigné à son habitation,—quel bien n'aura-t-il pas fait au pays! Voilà la vraie Science Morale et Politique."—SAY.

transfer the same tactic to a still higher field, and enlist the excitability of mankind against their vices, as so many conquerors have enlisted it against their lives and more sober interests. In every branch of political combination we familiarly study, and confide in, human nature too little; and the improvement of society is retarded, not for want of moral agencies suited to promote it, but because we do not give them this, their noblest direction.

ON THE BEST MEANS OF PASSING FROM THE PRESENT SYSTEM OF CONVICT MANAGEMENT TO THE ONE RECOMMENDED.

As a general principle I am of opinion that when a proposed end is distinctly seen, and the difficulties in the way of attaining it are also tolerably understood, it is better not to prescribe too strictly the means by which it should be pursued. Even very inferior agents frequently exhibit a tact, in such circumstances, which within its sphere is not inferior to talent; and a personal zeal is generated where a latitude is given to individual discretion, the value of which cannot be too highly estimated in conducting a nice and difficult transaction, in which *management* is required, and a mixture of persuasion with direct command. In the following suggestions, accordingly, I do not pretend to say what would certainly be the best way of accomplishing the truly desirable change of the present system of Convict management for a better,—but what has occurred to me as the way in which I would myself conduct that change, were I to have the charge of bringing it about. And may God grant that the day may be near when the task shall be undertaken,—to whomsoever confided! There could not be a more interesting undertaking.

My first principle would be that the change should be *adequately prepared* for before being commenced;—but that once commenced it should be conducted ener-

getically, and not suffered to linger through a long period of transition. It is always a difficult and delicate task to halt between two opinions; and when, as in the present case, the very spirit of two systems is different, it will generally be found, I believe, that the good effects of both are lost, and their respective inconveniences materially aggravated, by an attempt to amalgamate them. Thus, for example, has the Apprenticeship system in the West Indies disappointed all parties;—and this case is singularly in point—for in it the attempt was also making to pass from slavery and direct coercion, to a rational measure of freedom guided by influence and moral agencies.

I would *prepare*, then, for the change,—but when prepared, I would rapidly accomplish it;* and my first preparation would be a full discussion, on the spot where the question is most interesting, and where its bearings must be best understood, of the merits of the change itself, and of the substitute for the existing system contemplated in it. I would publish on these points in the Colonies themselves,—and invite reply—and court the investigation of my views and opinions by every means in my power. I would do this with the utmost frankness; and would neither *fear*, nor, indeed, expect, any violence of discussion, or restlessness of movement, on the occasion. On the contrary, I am persuaded that, so much is every one injured by the actual arrangements, there would scarcely be a dissentient voice, after a little time, to their abolition as proposed;—and all would vie in promoting the change rather than embarrassing it.

* "Prima Argo committenda sunt, extrema Briareo."—Bacon.

With this hope I would first press on the Free that they cannot, even if they would, hope long to retain the system of private assignment. The day is gone by when Domestic Slavery *can* be tolerated, on any pretext, within the British Dominions. It has been suppressed, at enormous cost, in the West Indies,—though there the modification exhibited of it was in every respect less objectionable, politically, than that in the Penal Colonies,—the servants having been less intelligent, less aspiring, and more reconciled to their position by birth and early habit,—and a parental feeling having existed towards them in the minds of most of their masters, fortified by a selfish interest in their preservation, of neither of which are there here any traces. But even if this system could be maintained, I would next argue that the masters ought not to desire it,—for both morally and pecuniarily *it is disadvantageous to them.* They share in the moral injury which it inflicts on all connected with it;—and it neutralizes half the physical force otherwise at their disposal, and fills their houses with sullen, obstinate, wasteful, and dishonest slaves, instead of willing and trustworthy servants. Lastly, I would point out to them that the remedy which I propose would not reduce the supply of prisoner labor imported into the Penal Colonies, which they naturally consider that they have a strong interest in deprecating,—but would probably increase it;—while it would double its effective power, and merely change the time when individual prisoners come into their service. I would also address some words to the prisoners. I would not deny, (how could I? or why should I?) that as yet they have been treated injudiciously; but I would not expatiate further on this

point than to found on it the expression of a belief, which I most sincerely entertain, and could wish to impress on all, that their faults at present are chiefly attributable to the treatment which they undergo, and would speedily disappear under an improved system. I would thence, accordingly, seek to carry their views forward, and to enlist their emulation in the confirmation of my hopes. I would especially caution them against immediate restlessness,—assuring them of my resolution firmly to repress it, if shewn,—but at the same time to feel most grateful for, and as much as I possibly could, to acknowledge and reward its self-controul and command. Nor should I have the slightest apprehension of either address being ineffectual. There is abundance of intelligence in these Colonies. which only wants to be properly reasoned with, to become itself reasonable. And the good feelings of all would be only the more elastic, if once touched, from having been long repressed by the unnatural relation in which they have stood to each other, and to the Government under which they have lived; which the exercise of a large discretionary authority has (in many cases with the best intentions) made necessarily arbitrary, imperative, unreasoning, and by so much unsuited to call out either the reason or affections of those under it.

And while thus operating on the community I should be also training, and *interesting* in their task, my immediate agents. I should attach great importance to the latter object especially;—and both in it, and the other, I might probably experience some preliminary difficulty;—but there is no reason to think that it would be insurmountable, for subordinates naturally

take their tone from their principals, and are zealous, and even intelligent, as they direct.* It has been objected to me that I should have most difficulty in procuring the inferior overseers;—and this is possible; —yet, after all, I merely want men who will direct certain parties, and be able to record each night whether they have been generally well conducted or not. To check their operations I would have every day's record suspended publicly where all might freely examine it;—and the superior Inspectors would be required to see to this, and also instantly to investigate complaints. The real facts would be thus known to so many, and they would be so recent, that doubt would scarcely be possible;—frivolous complaints would be visited with additional marks of disapprobation;—and repeated well-founded ones against any overseer would entail his dismissal. A little patience on all sides might be requisite at first; but non-commissioned officers in the army have as hard tasks, and acquit themselves well in them. I am confident that apprehension on this score, carried to any length, is greatly overrated.

At length, then, I should consider myself ready;—and even before that period I could take some overt steps, for I could fix a day before which all masters should be required to report to Government which, among their assigned servants, they chose to retain, for three months certain, on an inferior class of ticket-of-leave, (enabling the holder to be a servant on hire, but not to set up as a master,—a division of this indulgence suggested by the Chief Police Magistrate of Van

* "Le seul moyen d'inspirer de l'intèrêt aux autres est de s'interêsser soi même: et ici le semblant est plus difficile que la realité"—Say.

Diemen's Land, and which I think well conceived). They should be required at the same time to state their reasons for selecting as they do; and these reasons I would carefully collate with the police characters of the several parties, desirous generally to decide in conformity with the masters' wishes, but not holding myself bound to do so at the first moment in all cases. There might be an advantage in making the day fixed to differ in different districts, that the operation might be conducted afterwards with order and deliberation;—and when proclaimed it should be somewhat distant, for the interval would, in fact, constitute a period of *moral* preparation for the entire change,—the servants during it having a strong interest in recommending themselves to their masters. The plan would obviously bestow on some prisoners this inferior class of ticket before they were entitled to indulgence in ordinary circumstances; but I would not object to it on this account,—for only the useful and well-conducted would be so favored, and in conducting a great change minor anomalies should not be regarded. Good conduct for a certain period in this grade would, as a general principle, be necessary before obtaining the next.

As the lists were received, another day would be next named for carrying the arrangements decided on in relation to them into effect;—which day might also vary in different districts, or be made to bear a fixed relation, (as a distance of one or two months), to the day when the lists were required to be given in. During this further interval the servants would be told that up to the latest moment their masters would be empowered to reject them,—by which means the moral impulse to good conduct, above adverted to, would be kept up;—

and during this period also I would receive, and consider, applications from others than their own masters for such servants as may have been by them rejected. My wish would be to give each master a preference to the *immediate* service of his own men, and, at the same time, to distribute as many tickets-of-leave as possible, —both that the community may be as little as possible embarrassed by a loss of labor,—and that the men may receive the utmost encouragement to behave quietly and patiently during the transition, by feeling that they were all, with as little favor or prejudice as can be devised, getting a new chance. Yet of course the very bad and very useless would have to be brought in to Government;—and in the preliminary enquiries necessary to classify them, as in every other part of the arrangement, I should anxiously consult my own superior agents, and the Magistracy of the several districts.

At length the several allotted times would be accomplished, and the change would be completed. The refuse would be brought in, classified, and distributed, as circumstances directed, on the public works. None would be sent direct to *punishment*;—this would be unjust without fresh offence;—but, permitted to associate themselves, on the general plan, in parties of six, choosing each other, they would come on *probation*,* and would either pass through it with credit, so as eventually to come out on tickets in more favorable circumstances,—or, if incorrigibly bad, would fall back on *punishment*,—or, if worn out, and useless, would be provided for as circumstances may direct. The domestic servants in the Colonies would meanwhile be-

* See for the details of this a future Chapter "On Training."

come all hired and comparatively free, with an interval of *moral* preparation for this state approaching probably to six months, and of compulsory residence with their original masters, but in a new character, of at least three months after it,—which would be desirable to prevent restless changes of situation on the first excitement. The masters would equally share in this preparation. With the near prospect of losing compulsory service they would adopt the means by which free domestics are obtained, and kept, in England, even before the necessity of doing so became imperative;—and the transition from *physical* to *moral* agency in maintaining order and subordination would, I have little doubt, even out-run the apparatus by which it would be sought to enforce it.

Lord Bacon says "that if asked what he considered "the first requisite of a Statesman he would say "boldness; and the second boldness; and the third also "boldness." I do not quote these words because I think any great degree of boldness, or even ability, is requisite on the occasion of effecting the change which I have here contemplated;—for, on the contrary, the courage requisite seems to me chiefly of that character which is required to save a man under sentence of death from execution;—and I repeat that I most sincerely believe that many other means might be devised of accomplishing the change, as good as those I have above suggested. But the subject is one in which caution against the hazards of innovation may be very plausibly, if not convincingly, urged;—and even the reproach of having so long maintained the existing system would be second to that of being *afraid* to alter it, *afraid* to deal *justly*, and thence *successfully*, with

our fellow men. The greatest errors of the unhappy sufferers whose cases I have been considering now flow from the treatment to which they are subjected; and shall we *fear (!)* to give a fair chance to their better qualities?—" Connoitre ses vrais intérêts, c'est le commencement de la sagesse ;—*avoir le courage de les suivre en est le complement.*"—SAY.

ON THE BETTER QUALITIES OF CONVICTS.

It is interesting, and even touching, to observe how immediately better qualities—the *Social virtues*, in a word,—shew themselves, among the prisoners, even as now managed, so soon as they come, by any change of circumstances, to have interests and objects *in common*, and thus acquire a *Social*, instead of a purely *selfish* existence. The late bushraugers were apprehended in consequence of not abandoning a wounded comrade;—similar anecdotes are told of all similar parties;—and even in ordinary excursions into the bush it has been observed that almost all prisoners behave well, and shew zeal, courage, and self-denial,—so slight an approach to community of interest and object with their masters and companions being yet sufficient to bring out the better part of their several characters.

And this subject could easily be placed also in other points of view, if I could believe it necessary, after shewing the horribly demoralizing system of management * to which the prisoners are now subjected, further to argue that they would exhibit better characters

* Was Domestic Slavery ever known not to demoralize, both high and low, both Master and Slave? Nothing surprises me so much as that a doubt should ever be cast on this subject by reasoning men,—reasoning and benevolent;—but their practice being benevolent, it is this which blinds them. They consider the subject, not abstractly, but relatively; and set before themselves, not the naked and filthy Idol, but the gilding with which they individually cloath it.

under another and more rational one. That they are not at present absolute devils is owing solely to God's goodness, and to the admirable nature with which they are endowed, and which the devices of their fellow-men may veil and obscure, but cannot wholly destroy. " The inclination to goodness," (social attachment) says Lord Bacon," is implanted deeply in the nature of man ; insomuch that if it cannot issue towards men, it will take unto other living creatures." So also Pascal: " L'esprit croit naturellement, et la *volonté aime naturellement:* de sorte qui' à faute de vrais objets, il faut qu'ils s'attachent à faux." And in strict conformity with these observations the prisoners are all passionately fond of dogs;—and though, no doubt, their object in procuring them is often a bad one,—and their possession is always a snare (leading to frequent well-founded complaints by the Settlers of their numbers and depredations),—yet in the majority of cases it cannot be doubted that the affection felt for them is an outlet, or vent, for feelings pent in on every other side, but of which much might be made, were they properly recognized and applied.

There is a goodness, indeed, and wisdom, in the administration of the Universe on this head, which we cannot sufficiently admire and reverence: and which it would be our wisdom to study more than we do,—and to seek to co-operate with,—and deduce analogies from,—and thus, in regard to our fellow-men, in the words of my general motto, "*juger, et agir, comme Dieu agit.*" The only living thing that truly loves, sympathizes with, and *respects* a prisoner, as now treated, is his dog:—and it is his luxury, as well as virtue, to love it in return,—so precious, in the sight

of Omniscience, are those *Social affections* which it seems the object of Prison Discipline, both in these Colonies, and as recommended to be improved at Home, to trample on, and endeavour to extinguish. The outcast and forlorn have also constantly some such friend, by whose means feelings are sustained in bosoms which, without them, would often be without hope, and worthless. Trenck had his spider. "Je desirais surtout un ami à qui je pusse communiquer mes plaisirs et mes peines." (It is an Indian Pariah to whom these words are attributed,—the outcast of his country) :—"Je le cherchai long-temps parmi mes egaux : *mais je n'y vis que des envieux.** Enfin j'en trouvai un, sensible, fidèle, et *inaccessible aux prejugés* * * * * c'etoit ce chien que vous voyez."—SAINT PIERRE.

"Blest is the man," says the Psalmist, "whom the Lord chastiseth *in kindness*" ;—and if blest, then surely improved. But there is no kindness in the theory of the existing system of Prison Discipline :—and though in its practice much may wear this aspect, it will yet be found, I fear, in almost all cases either interested, or injudicious, or capricious,—and thus necessarily unsuited to produce a moral, or improving, effect. To real, disinterested sympathy, or kindness, even if only shewn in voice or manner, I have seen very few priso-

* The fruits of Slavery and degradation, the workings of Tyranny and oppression, are always *anti-social*. A man overwhelmed with the weight of his own burthen looks with envy, not with sympathy, at his neighbour's (supposed) better lot, and among prisoners (at present) in the Colonies, as among unhappy, degraded, wretched women of the town at home, a fiendish pleasure is, on the contrary, too often taken in pulling others down. But in either case is this altogether their fault?

ON DEGRADATION AS AN ELEMENT IN PUNISHMENT.

There appears to me to be an essential, almost obvious, yet much overlooked, error in annexing unnecessary degradation to punishment, which cannot be too strongly pointed out, and deprecated. *It is Vice that degrades;* and though punishment, as pre-supposing past vice and present subjection, is, by the prejudices rather than the reason of mankind, considered degrading also,—yet, being of the nature of an atonement, it ought not, abstractly, to wear this aspect, (any more than the payment of a just debt, or other compensation for wrong inflicted); and in the case of our children, and others in whom we are really interested, it does not wear it, the natural impulse and principle of kind and judicious parents being not to aggravate the infliction of punishment by disdain, but, on the contrary, to prove, by concurring care and kindness, that it is awarded on principle, and not in passion. There is thus nothing in the *theory* of rightly understood punishment (viz., *benevolent* chastisement, to deter others, as well as the criminal himself, from a repetition of offence), which justifies the annexation of unnecessary degradation to it;—and in its *practice* there is this unanswerable objection to such annexation, that it chiefly affects the best men, and has a direct tendency to reduce them to the level of the worst. It thus wants every quality which a good punishment

ought to have, and seems to have every one which it ought not to have. It is unjust, unequal, oppressive in the inverse ratio of demerit, generally deteriorating, and productive of bad feeling both in the inflictor and sufferer. It creates and nourishes pride, self-righteousness, and supplies a field and occasion for the indulgence of arrogant and vindictive passions in the former : and, when felt at all, it bitterly wounds the latter, and gives every human sentiment within him a morbid and vindictive action. It is thus as opposed as possible to all that, in reverence, we can conceive of the moral government of the universe by its Great Creator :—makes all parties worse :—and, sowing the wind, we have only to look at the Social condition of the Penal Colonies, in which it at present abounds, to see that it reaps the whirlwind.

I have elsewhere, indeed, (p. 6 et seq.) traced with some minuteness the principal social evils directly attributable, in these Colonies, to the reckless application of the idea and term " Degradation," to every modification of the condition of prisoners in them. But if I wanted a further illustration of the mischief, both moral and intellectual, (for they are generally combined), so effected, I might appeal confidently to the evidence given before the Transportation Committee of the House of Commons, (June 1837), and published in its Report. As testimony it is of various degrees of merit, much not high, and some even exceedingly low :—but the remarkable circumstance is, that scarcely a line of it indicates in any of the witnesses an enlarged interest, or feeling of benevolence, for the unhappy objects of the enquiry ;—and some of it shews an almost incredible indifference about their welfare or

reform.* Such insensibility,—or rather, I would say, such obtuseness alike of feeling and understanding, (for the comfort and prosperity of the Settlers is far more identified with the *improvement* of the prisoners, than with their mere *restraint*), is not English, and does not even belong, probably, to the general character of those who have here manifested it. But it is strikingly illustrative of the tendency, on such points, of a state of society in which a large portion of the community is considered hopelessly "degraded," and divorced, in consequence, from the sympathies of a common nature with their fellow-men.—"A force de prêcher (et de pratiquer) l'erreur on s'en penetre au point de perdre le sentiment de la verité, de la justice, et de la piété même."—SAINT PIERRE.

It is very interesting also, thus, (and still more as detailed at length in my Summary), to see social impulses strictly reciprocal, action and re-action equal, and the oppressor injured, both in character and in circumstances, by the result of his oppression. It may be humbling also to the pride of human place, power, and intellect, to view such a result; but it exalts our notions of providential rule. It strikingly illustrates the text,—"He that hath much shall have more, and from him that hath little shall be taken even that which he hath;"—and also those others in which

* The nearest approach to exception to the above remark is to be found in the evidence of Mr. Macarthur and Sir Francis Forbes; but even their benevolence is relative rather than abstract, and regards the usefulness, much more than the personal comfort or reform, of the prisoners. Some other parts of the evidence given make the reasoner and philanthropist wonder at the total want of decency, and of good, or even statesmanlike, feeling on the part of those who could offer it to a Committee of the National Legislature.

even temporal advantages are promised to the exercise of Christian love and charity. It shews enlightened benevolence to be true practical wisdom, and cruelty or indifference to be folly as well as crime. The justice administered may be called poetical; but its sphere is amid the most ordinary realities of social life.

ON TRAINING.

I have lately seen an extract from a letter of high authority, in which, amidst much gratifying concurrence with my general views, a doubt is yet expressed whether I could make such a distinction between *Punishment* and *Training* as I anticipate, or as could realize the expectations I found on it. "There must be constraint," it is observed, "which is Punishment, with Training;—and there ought to be instruction, which is Training, with Punishment." On this head, therefore, some detailed observations seem now required.

1.—"There must be constraint with Training;"—but is constraint necessarily punishment? I think not. We are all under some form or other of constraint; and soldiers, sailors, servants, schoolboys, and professional men generally, are under very much; yet we do not all consider ourselves under punishment. The essence of punishment is *painful retrospect;*—it is constraint, or suffering, imposed in retribution for a past offence, and with little direct or obvious bearing on the future interests of the sufferer himself. Its infliction, therefore, produces depression, dejection, a certain hopelessness as to the future,—or else, it may be, if ever so little severe, a feeling of impatience or irritability under supposed harsh treatment (a feeling much supported by the conventional nature of many of the offences

punished by society, and the little apparent connexion between the agents carrying the respective sentences into effect, and the individuals injured by the original offence.) The mere physical suffering, however, thus inflicted by punishment, is trifling compared to the effect produced by the circumstances accompanying it;—and nothing, accordingly, is more common than to find even the most degraded, the least excitable, court, or meet with joy and exultation, far greater real labor, suffering, and privation, bearing prospectively on their future fortunes, than is sufficient under punishment to break their spirits altogether. One of the last impulses that deserts the human breast is hope;—and it is ever ready to become active when a field is presented for it to expatiate in.

2.—"There ought also to be instruction with punishment;"—but can instruction, *per se*, be considered Training? This also, I dispute. Instruction is merely an improvement made, or sought to be made, in the material to be trained; and the essential ingredient in moral Training, without which it cannot be, and with which, whatever the accompanying circumstances, it always does more or less exist, is a limited amount of *free agency*, controuled and guided by *moral impulse* (prospective motive), and unfettered by direct present threat, or violence. Its domain is thus the future;—it looks to the future,—and operates by the future. It forms, consequently, a habit of resisting present impulses for the sake of consequent advantages, which, when confirmed, is just the result wanted, the precise form of social virtue which we wish to impress on our released criminals. In the arrangements contributing to form it there may obviously enter even a considerable

amount of restriction, or constraint,—but not the restriction, or constraint, of *punishment*, but of *probation*. They will look forward, not back; they will encourage, not depress;—and in truth, the greater their amount, while thus characterized, (provided they be not unnaturally severe altogether), the greater will be the triumph of the resolution which shall surmount them, and the greater the confidence with which its rewards may be bestowed. It is thus by no means desirable that a Training process should be too easy,—for by toil and self-denial both body and mind are strengthened;—but it is desirable, or rather it is indispensible, that the stimulus to perseverance applied in it should be of a *moral*, *persuasive*, and *prospective* character,—not of a physical, coercive, immediately present, or retrospective one. It is the sinews of the *will* that for the most part want strengthening in our criminal population. Their purposes are seldom essentially evil, but their resolutions are weak. And a judicious course of moral Training will confirm these;—while the object is defeated, rather than promoted, by cultivating in them only the virtues of submission, and by breaking their will on all occasions to compliance by physical enforcements.

3.—There is, then, a clear, substantive, distinction between *Punishment* and *Training*, which cannot, I think, be missed either by those who observe, or those who are subjected to them, if it be only distinctly contemplated in organizing the original arrangements connected with them. It exists even though many of the accompaniments of both should agree; and it is, in truth, most signally displayed precisely when their respective effects are the same,—when each commands

implicit obedience to severe regulations. For in this case the one has subdued the individual subjected to it, —the other has raised him again ;—the one has coerced him by his fears,—the other stimulated him by his hopes ; —the one has reduced him to acquiescence in the present condition of a slave, in just retribution for past offences,—the other has made him again worthy to be a free man. And to the attempt made in the existing convict arrangements to combine these contradictory processes,—each in its place useful,—and to attain such opposite ends by one process,—(thus to walk east and west, at the same time,—or to add together opposite algebraic quantities without destroying both), I still confidently attribute some of their worst and most painful results,—and, in particular, this most remarkable one that in the fusion the object of Training has been to a considerable extent lost sight of altogether,— and the greater end been sacrificed to the lesser. But having laid down this principle,—and also the corollary from it, that to the *separation* of these objects, and their *distinct*, *specific*, and *intelligent* pursuit, we must alone look for reversing these unhappy results,—and further shewn generally how this may be effected,—I am not myself, as yet, in any degree solicitous about the details which may be involved in either operation. A good principle, I hold, can always be worked out ;— and the better it is, the more flexible will it always be found as to its means, and the more readily will it accommodate itself to the inevitable differences of talent and character in the rational agents employed in carrying it into effect. I do not, therefore, myself anticipate the slightest difficulty in acting on this one ;—and I have had a further reason for not previously entering

on any details regarding its mode of operation,—viz. a fear least these details should be considered the principle itself, or indissolubly connected with it. It is not so, however. Improvements, I am persuaded, may be made in the working details indefinitely; or different Superintendents may at the same moment pursue the same object, on the same principle, and with the same success, but in different ways. It is one of the beauties of a system of Moral Influence that a sphere of inventive action may thus be assigned by it to its subordinate agents, though their object is every where the same. This is advantageously exhibited in the competition between different schoolmasters in the modern systems of Education. They have all their separate methods of imparting instruction,—each pre-eminently successful with the individual originating it,—and as advantageously altered by his rivals or successors. And the same flexibility exists in all systems based on Moral Influence. The ways of force are few and uniform, but of persuasion many and diversified.

4.—The rule or principle, then, is alone inflexible, and must be common to all Superintendents. They must first *punish*, then *train*;—*punish*, if necessary, by *direct physical violence or constraint*, because in this stage it is desirable to subdue the prisoners' minds, and fix them, in painful retrospect, on their past guilt;—but *train*, if possible *exclusively by means of Moral Influence*,—of cheerful animating hope, directed to the future. They must encourage, rather than denounce, or reproach. It is a mistake, much too commonly made, to seek Reform by making Vice painful, instead of making Virtue pleasing and advantageous. This mistake is getting expelled from Schools of Intellect,

and it must also quit Schools of Morals. The respectable portion of the community is stimulated, not by the fear of incurring punishment, but by the desire to live comfortably, and rise in the Social scale; and we may be sure that the same motives will be found adequate to the same ends elsewhere also, if only brought to bear on those subjected to them with system and intelligence.

5.—In the spirit of these views, accordingly, I should myself anticipate a period, (not distant either, were the experiment energetically made), when every species of direct coercive discipline, without exception, might be discontinued at well regulated Training Stations. When the first difficulties in organizing them are got over, and the spirit in which they are meant to be conducted is generally understood, I should be inclined to consider a Superintendent unfit for his situation who could not manage the mass of his people without having recourse to them;—and the exceptions, on the other hand, who could not by any means be so managed, I should remove from such a situation, and restore to *punishment*, as much for their own sake, as that of others. At the same time I would not peremptorily forbid physical stimulants being had recourse to on occasion, should an extreme example, yet short of sending away, appear requisite;—only I would, on the general plan, punish the whole party to which a guilty individual belonged, equally with himself;—and under this necessity nothing would ever induce me to have recourse to corporal punishment in such a situation. I believe this to be at present in many cases necessary. Wherever an exclusively coercive system of discipline prevails it must, as an extreme form of this, be occasionally necessary. But I am persuaded that it always inflicts

a deep moral injury; and where a proper system of rewards, and other moral stimulants, is provided, I believe it to be quite unnecessary.* I should be most unwilling indeed to think otherwise.

6.—In its stead, and also largely in stead of all modifications of compulsory Discipline, I should expect every thing from giving a *near*, as well as *remote*, value to marks of approbation. I would not confide the good conduct of those who, from their position, must be considered short-sighted in their views of permanent advantage, solely to the support of distant inducements;—but for their benefit I would make these marks *a mere current coin*. I would assign so many as the daily wages of a party behaving averagely well,—with addition for distinguished good conduct,—and diminution for bad. I would further open stores at each Station, at which supplies of every kind, *even spirits*,†

* Late accounts from the West Indies announce the power of resorting to the lash having been withdrawn from magistrates, in relation to the negro apprentices, in Demerara, and, I think, one or two other of the Crown Colonies, without any injurious effect being either felt, or anticipated.

† To many of the lower classes, especially of our Prisoner Population, Spirits are a necessary of life, which they *must*, and *will* have; and the only question is, whether we shall provide a legitimate means by which they may obtain and use them in moderation, under our eye,—or whether, by altogether withholding this, *we shall compel these men to steal*, in order to procure an indulgence which thus becomes a Vice, and destroys the moral principle even beyond its immediate sphere of action. Besides, how are men to be *trained* to resist the temptations to *excess* in liquor on their return to Society, if they are altogether debarred from their use, even in moderation, while on Probation? Can a physical disability create a moral principle? No mistake is more common, and few probably are so pernicious, as to expect such a result from such a process. It is the fallacy which lies at the bottom of long imprisonments, and other unnatural restraints.

could be obtained by the several parties, at their joint expense, in exchange for marks, as registered in the Superintendent's book,—*but for no other consideration.* I would thus obtain a strong *immediate,* as well as distant stimulant to good conduct,—a strong deterrent from evil,—a means of paying wages, and imposing fines, which could not at the same time, be itself stolen, or clandestinely transferred,—a means also by which Indulgences could be legitimately obtained,—yet a strong remaining interest in each of the Parties to exercise economy and self-denial,—for only the residue of their marks, after paying for these gratifications, would go to purchase their ultimate liberation. The scope and temptation to good conduct would be thus indefinitely extended—and the inducement to evil would be indefinitely narrowed. The first would aim both at the acquisition and economy of marks; and the second could scarcely exist, for misconduct would lose them, and gain nothing in exchange, they only having avowed and current value.

7.—In this way a species of Savings Bank system in regard to marks,—(a habit of hoarding them at the sacrifice of present enjoyment, with a view to future good,—and this not by command, but from free will, —and with a *social,* not merely a *selfish* purpose),—would speedily grow up at all the Stations, aud be altogether invaluable as a source of moral improvement.* It would have almost every good property as

* I would not even assign rations; but enabling each party to purchase what it required, or chose to consume, I would train up moderation and economy, as in ordinary life, by making the acquisition, or forfeiture, of their appropriate rewards depend entirely on each party's own conduct, and be its natural consequence. Rations appear to me in

a system of management, and not one bad one as regards the prisoners themselves, for it would be in the highest degree *morally* coercive, yet not physically obligatory at all. Every one would think he enjoyed full freedom of will,—yet every one would be under the almost absolute controul of impulses, common to all, yet personal to each, and which could not fail, therefore, of generating an *esprit de corps* productive of harmonious effect.

8.—I should almost be afraid, indeed, (as I have said elsewhere), that the stimulus thus produced might in some cases be too strong,—and, if not watched, of too low a character. It might produce excessive severity, among the probationers themselves, towards the trifling offences which from time to time forfeited marks;—and it might make good conduct in their estimation to be only valued as obtaining them. But the religious and moral instruction and exhortation which should accompany it, would in some degree diminish these chances. It would be the duty of intelligent Superintendents further to provide against them,—in particular by strictly accommodating their rewards and punishments to the *moral* quality of each act, in preference to any incidental convenience arising from it. (The present horrible system, by reversing this rule, too often rewards the worst actions). And resembling, as the whole arrangements would do, the ordinary course of life, (for a change in the circulating medium

every case morally injurious,—for either they are inadequate in quantity, quality, or both, and thus make men discontented,—or they are too good, and form habits of wasteful prodigality. Both effects may be seen at present in the Penal Colonies; but the latter is more common and enduring; and is exemplified also in the frequent careless expenditure of retired Soldiers and Sailors.

is almost the only difference), it might be hoped that these possible results of it would not shew themselves in great excess.

9.—It is almost unnecessary to repeat that a system like this is compatible with a great extent of constraint, —and even ought to be accompanied with a considerable, but decreasing, amount of it, as liberation is approached. A Training Station would be just a barrack, with the soldier's credit at the canteen contingent on his good conduct,—and his privileges and promotion on his accumulating a fixed amount of pay besides all his expenses there. But whatever the restraints thus imposed, by every possible means the probationers' *self-respect should be kept up* while enforcing it. The parties should mount whatever guards were required in strict rotation;—they should all be thus confided in, and exercise a brief authority, in turn, —and take their chance of winning, or losing, marks, in succession, according to the successful discharge of their guard, as of any other, duty. I would not myself have a single soldier, or professed constable with them, —they should themselves enforce the regulations;— nor should I have the slightest fear of hesitation in their being enforced. For why should any hesitate, or rebel? *Habita fides fidem obligat;*—and there would be a kindness, consideration, minute approval of good conduct, and indirect rather than direct punishment of bad, in the whole arrangement, against which there never could be a general feeling,—while individual movements would be restrained by the general spirit.

10.—Lastly, I think that to married men, on this plan, I would assign separate cottages at the Training Stations, and permit them to live in these with their

families, while undergoing the probation,—*provided that the families also submitted to the same rules, and gained and lost marks on the same principles.* A married man's family would thus be his party, and he would rise, or fall, in the scale, according to his and their conduct *jointly*—a proper sphere of good conduct being of course assigned to wives and children, on this plan, by the Superintendent. There might be some difficulty in arranging the expense of the maintenance of families on this plan;—but in every other point of view it would be most advantageous. The object being to call out, and *fix*, a man's social feelings and affections, no agent could contribute so powerfully to this, as his own family;—and the habits of domestic order and economy thus generated, and the natural aids by which they will have been supported while Training, would most beneficially accompany him on his release.

11.—The objections, then, which may be made to this whole System, or which may appear at first sight calculated to weigh against it, appear to me to resolve themselves into the following. Its object may be considered unusual, and over-refined. Or its machinery may be deemed complex and artificial,—and its operation, consequently, expected to be troublesome, and too dependant, for success, on the qualifications of the agents employed to work it out. Or it may be called too expensive, as tending to fix on the Government not only the maintenance of a great number of prisoners, but also the cost of indulgences granted them for good behaviour. Or it may be contended that making prisoners thus comfortable on issuing from their first state of punishment may encourage crime at home, and also tend to deprive Settlers of their after services by making

them desire to remain in *probation*, rather than leave it. To all which objections, however, I think that satisfactory answers can be made.

12.—The object here proposed is by no means so unusual as it may at first sight be deemed. We have Schools of Industry on a small scale,—and why not also on a large? The Russians have military villages, conducted nearly on the plan of these Training Stations, and with an analogous, if not precisely identical, object. M. Fellenberg's Institution at Hoffwyl has almost the same purpose; and our military colleges and barracks are not dissimilar. The nations of antiquity had also frequently their schools of morals; and it is to be regretted, rather than founded on as an argument, that a christian aud enlightened age and people, like ours, is not generally so solicitous on this head as it ought to be,—and that the attention of our Statesmen and Legislators is far more directed to the study of the the means of accumulating national wealth, and of distributing intellectual instruction, than of supporting national virtue, and consequently national and individual happiness. But yet there is here a special case;—and, whatever the habitual indifference, I cannot believe that when properly represented it can be thrown aside. The social state of the Penal Colonies is already, from a great many quarters, brought under the consideration of the British public. From circumstances springing out of human vice, folly, and subjection to casual impulse, many of the representations thus pressed on it are grossly exaggerated. Yet this very exaggeration, proceeding from the bosom of their own communities, is itself a proof of the rottenness within; —and no exaggeration can paint in colors too black

the vileness of the principles which corrupt them, although the tone of the age, the instinctive tendency of the human mind to good, however it may be overborne at times by the force of circumstances, and the moral and religious instruction disseminated with the taint, keep down its most disgusting manifestations. These Colonies, at the same time, though thus characterized, are rapidly advancing in temporal wealth and greatness. Their greatest moral enemies are at the same time their greatest physical aids; and they must eventually command the Southern Hemisphere, India itself, included,—being already our chief *media* of communication with many Aboriginal tribes, Australian and Polynesian, the character of whose introduction to civilization must depend largely on the moral character of those with whom they are first brought in contact. And can the object of raising that moral character, at whatever expence of either money or trouble, be rejected because unusual, or deemed over-refined? I think not;—and there is yet another view in which the subject may be considered. The victims of our laws are, many of them, such through little original fault of their own, but chiefly through the overwhelming difficulties and temptations incident to our state of civilization. England profits by this;—her place among nations is maintained by it;—but these poor fellows suffer by it, and in existing circumstances suffer most tremendously (as far as we can see both in time and in eternity), and the object is surely a most imperative one to endeavor in some degree to mitigate the bitter character of their cup. At least let it tend to their own ultimate moral benefit; this seems the smallest atonement which we can make for sacrificing

their young hopes (once perhaps as bright as our own), to our interests, even though the process by which it is to be effected should be a little troublesome or complex.

13.—So far, at the same time, from thinking that the system which I have here proposed is of this character, it appears to me distinguished by nothing so much as its extreme simplicity, and the *facility*, consequently, and *certainty*, with which it may be worked. Its original principle is just the division of labor,—doing one thing at a time, and thereby doing every thing well. At present every thing is mixed, every thing entangled, and nothing, consequently, properly attained. The process is at once *retrospective* and *prospective*. Neither master nor servant has a fixed line of duty. One view will justify any extent of oppression, the other any extreme of indulgence;—or the caprices incident to every administration of a large discretionary authority may unite both extremes in the same individual. The status of the servant is thus a mere matter of accident. He is constantly insecure; and thus feels constantly entitled to take every advantage. His character deteriorates from hour to hour under the process; and the time and attention of the Magistrates and Head of the Government are in constant requisition to restrain, or punish, the offences thus directly generated. It would be quite different were the prisoners placed first under a punitive, and next an encouraging process;—first made steadily to repent of the past,—and then authorized to hope confidently for the future on condition of good conduct. Their minds would then accommodate themselves to both situations, and would be readily influenced by the

impressions which each is calculated to make on them. They would be submissive and patient under the one, aspiring under the other; and the working of the training stations would be easy, for their operation would be just ordinary life in miniature,—with wages, —fines—industry and order obtaining advantages,— and idleness and carelessness forfeiting them. The trouble to a Superintendent in conducting willing communities thus circumstanced, would be as nothing compared to that now felt in contending with the tricks and passive resistance of a road-party ;—the labor obtained from them would be double, or treble ;—and their details, once set in motion, would work almost mechanically. Even the difficulty of deciding from day to day on the men's individual conduct, so as to apportion their marks, would be very limited after a little practice. They must all have behaved particularly well, moderately well, or ill ;—and is any overseer of work at a loss to determine which character best describes the conduct of men laboring under his eye and charge? Favor, or malice, would be excluded, at once by the association in parties, the frequent notation of the record, its publicity, and interest to all concerned.*

* The transactions with the stores would also be easily managed by each party having a pass-book, one side of which, brought up every evening by the Superintendent, would shew their credit with him in marks, and the other their debit with the Storekeeper. In the first certain columns could also be made to indicate their transactions with each other, when marks were sought to be transferred from party to party for work done, or on loan. These should equally be recognized from day to day by the Superintendent, and be only available when so authenticated ;—but with this precaution against abuse, I would rather encourage them than not. Union, and reciprocal kindness and service,

14.—It is almost unnecessary here to repeat what I have elsewhere said often, and which is otherwise sufficiently obvious, that in this matter the first object of Government must not be economy, but *efficiency;* and as well might a parent in easy circumstances plead economy as an excuse for not restraining, and seeking to amend, an erring child, as a wealthy and paternal Government assign such a reason for not placing its penal institutions on the best footing. But it so happens, as I have elsewhere also explained, that in this case economy is associated with improvement, and extravagance with the existing institutions. Our Penal Colonies cost us at present three times as much as in a few years they would do under an improved system;—or rather, I could almost venture to say that if all the suggestions contained in this volume were acted on,—and our prisoners were properly distributed in Colonies where labor bears a high value, and were adequately worked in them, by *moral* as well as *other* stimulants, and with a qualified, but yet perfectly justifiable view to profitable return, as well as mere employment, or convenience,* they might be made sources of income,

are the very virtues which I should most desire to cultivate in them; and on which as a foundation, with proper motive and instruction combined, I should hope to raise almost every other desirable social quality.

* As in clearing and draining Government lands, to raise their value before sale,—clearing and draining lands on account of Settlers willing to pay for the labor,—making and repairing roads to which the community is willing to contribute,—with other public and private contracts;—and I am confident that the check which the temperate application of this principle would impose on the mis-application of Government labor, would be a greater benefit to the Colonists than any expense it might cast on them could be a burthen. Many public works in the Penal Colonies are now, through its neglect, of a cost and magnificence quite

rather than of expenditure,—and be only the more beneficial to the communities amidst which they are placed from this very circumstance,—for their labour would be thus certain to be well applied. The expense of the Penal Colonies, at present, is due to the exclusive employment of a coercive system in them,—the unproductiveness of labour under such a system,—its mis-direction,—the crime it generates,—the selfish and petulant feelings it gives occasion to,—the carelessness and dishonesty with which property is thus frequently administered,—and even the direct injury to which it is often subjected; by all which causes their respective communities equally suffer with the Government—and every one of which would disappear under a system of moral influence. Liberality in arranging the details of this would, therefore, be true economy, not extravagance; and at all events, surely, where labour bears a high value, that of prisoners, *working emulatively to obtain indulgences*, would be worth, to its employers, at least their cost, besides a bare maintenance.

15.—As regards example at home, I am about to hazard a proposition which may to some appear extravagant. I extremely question its value any where. The virtue which is supported only by a dread of punishment, excited by a knowledge that others suffer, I suspect to be both very limited in quantity and low in quality;—and with all the irregularity incident to the existing system of Transportation,—its physical benefits

preposterous when compared with their other accommodation;—and the Government labor thus unnecessarily expended has been as completely withdrawn from the true interests of the Colonies as though it had been cast into the sea.

to a favored few,—and the enormous fortunes which individuals among these have accumulated, Colonel Arthur states in his evidence, (Report, p. 296) that he never met a single individual who had been seduced to crime by a desire to share in its advantages. If such be the case, then, under a system containing such high prizes in its lottery, and which covers with a considerable amount of uncertainty even its remaining tickets, can it be believed that another would be more tempting which shews no high prizes whatever, and exhibits merely a laborious comfort, contingent on regular good conduct? On the contrary, so far as any thing can operate at all in this way, it would, I am persuaded, be a greater deterrent. The human mind recoils from submission to any direct form of punishment;—this it is which prevents the present system from being even a temptation, for its uncertainty and apparent physical advantages might otherwise allure many, ignorant of, and at a distance insensible to, its harsher features;—and so much every other system must share with it. Besides this, the certain reform, or at least unqualified submission, which that here proposed would soon be known to require before granting any indulgences, would be distasteful to young criminals,—for youth is bold and presumptuous, and regards defeat as worse than suffering. The indefinite period, also, suggested to be set, not to punishment, but to probation after it, to be determined only by approved good conduct, would awe a young mind much more than any fixed number of years, allotted when the future appears interminable. And the coming first, on arriving in the Colonies, to *punishment*, (where prisoners might either be prohibited from intercourse altogether with their families, or from

which they would have but little favourable to say of their change of position), would put an end to those delusive letters which are frequently believed to do much injury, and which, when sincere, are generally written within the first year, before the most painful portions of the system are felt, and when novelty contributes to reconcile to the remainder. To this point, then, as a whole, I repeat that I cannot bring myself to attach much importance. I am even inclined to question the *right* which society has assumed to itself of framing its laws so as *intentionally* to punish its erring members in reference, not to themselves, or the abstract quality of their own crimes, but to the impression which may be so made on others. This appears to me a sacrifice of their rights and interests to ours, which it would be very difficult to reconcile with any abstract Christian principle;—for we may not do evil even that good may come;—and in truth, so little real good ever does come from our attempting to seek it through evil, that we may almost draw an inference from this against the fact of our deriving any material advantage from acting on a principle, manifestly unjust in its very basis.*

* It may be perhaps said that the same observation will apply to my proposed association of individuals into parties, by which men will occasionally suffer for others' offences;—but I cannot think so, for the object there is *mutual* benefit, and the individuals who suffer *occasionally*, will gain *permanently*. This law of partnership, as has been already said, is of constant and unavoidable occurrence in all forms of society, and of acknowledged beneficial tendency, whether in commerce, or in the relations of domestic life.

All the reasoning, if it may be so called indeed, that I have yet seen against this proposition, rests on the assumption that the men will not be improved by it; and in this case I readily admit that to continue for a length of time, and without ulterior effect, punishing the innocent

But, when rightly understood, the interests of society will generally be found to concur, and very seldom essentially to conflict. The system which looks most

with the guilty, would be to the last degree cruel and unjust. But the object is to engage the innocent in the task of *winning over*, not merely *coercing*, the guilty, thus destroying crime by making all well conducted alike ;—and that this result would very soon and very certainly follow the proposed arrangement may, I think, be demonstrated by the whole analogy of human nature,—and has been, besides, already proved by direct precedent. The perfect success of King Alfred's police arrangements in the early days of English History, is proverbial ; in the language of an almost cotemporary historian, " gold bracelets were wont to be hung up at the meetings of highways, and no one dared touch them," though the license arising from civil and predatory warfare was quite recent. And the following is Hume's account of the means by which such a result was effected :—

" Every householder was made answerable for the behaviour of his family and slaves, and even of his guests if they lived above three days in his house. Ten neighbouring householders were formed into one corporation, who under the name of a tithing, decennary, or fribourg, were answerable for each other's conduct, and over whom one person, called a tithing-man, headbourg or borsholder, was appointed to preside. Every man was punished as an outlaw who did not register himself in some tithing ; and no man could change his habitation without a warrant, or certificate, from the borsholder of the tithing to which he formerly belonged. * * * * * By this institution *every man was obliged from his own interest to keep a watchful eye over the conduct of his neighbour ;* and was in a manner surety for the behaviour of those who were placed in the division to which he belonged,—whence these decennaries received the name of Frank pledges." And Hume thus continues—" Such a regular distribution of the people, with such a strict confinement, may not be necessary where men are inured to obedience and justice ; and it might perhaps be regarded as destructive of liberty and commerce in a polished state ; but *it was well calculated to reduce that fierce and barbarous people under the salutary restraint of law and government.*"

Alfred's tithings were probably taken from the Roman *gentes*, the component divisions of their *municipia ;* and in the liability of districts to make good losses by tumultuary violence in England we still see their principle among us. Similar institutions existed among the Jews, Irish, Scotch, Hindoos, &c. ; and they may be traced, indeed, among nearly all nations at that particular point of their advance when order first be-

exclusively to the prisoner will thus be found, I am persuaded, to operate also most beneficially, both on the class from which he has been taken, and on the community at large. We know *his* best interests; they are simple, and cannot be mistaken; while those of society are much less easily calculated. In seeking to reform him, therefore, we *discharge an unquestionable duty;*—and since our success must benefit him, we may humbly but confidently trust that we shall not thereby fail to benefit others also. The process by which we effect this object is very likely, I think, to be two-fold, and to act on different individuals in different ways. Some (the weaker, the more pliable, the fitter therefore to remain at home, amid known scenes and avocations), may be deterred by it from following in his original evil courses;—and thus far well, for this is just the end which statesmen at present

comes of greater value to the mass of the community than license, and when the law is thus brought into strong and direct contact with previous habits of violence and irregularity. The sweeping compass given by savage nations to their impulses of revenge, which constantly embrace families, and often tribes, nations, and even colours, is also of the same character. In no case, when otherwise expedient, do the feelings of natural justice appear wounded by them.

After all, too, the proposal, as made by me, is a mere detail. It may be indefinitely modified as regards the number associated, the strictness of the tie by which they are connected, and every other particular. But the principle for which I contend in it is a golden one, and may not be gainsaid. It is that, if we would restore our criminals to society likely to become worthy members of it, we must cultivate their *social qualities* while they are under our management;—we must thus endeavour to overcome the selfish and exclusive feelings which in almost all cases first conduct to vice;—and by early making them consider themselves parts of a whole, members of a community, give them a tendency to take a like early interest in the general well-being of whatever other community may afterwards absorb them.

propose to themselves by what they call "making an example." And some others (the bolder, the more hardened, the more reckless, the better fitted, accordingly, for new scenes and hardier pursuits,—or it may be sometimes, the more anxious to quit profligate associations, and embrace a life of honest pursuit), may thus be brought into his subsequent improving position,—which I should say would be better still. Can removing young thieves from a state of society in which they imbibe the maxims of crime with their mothers' milk, and live only by applying them, to another in which they may be made honest, useful, virtuous, and happy subjects, be other than a truly wise and benevolent process, at once beneficial to the Mother Country and her Colonial children? For my own part I would encourage such deportation wholesale; and as I have explained elsewhere (p p. 63-4) would prefer it a hundred fold—(for every interest, home, colonial, and abstract), to the wretched shipments frequently made to these Colonies of what are called free laboring emigrants, men who come out with exaggerated expectations,—who, having wanted the courage to face their difficulties at home, want that also required to meet with cheerfulness and hope the disappointing reality abroad,—and whose presumed innocence there becomes often their greatest misfortune, for it deprives them of the guidance and protection which penal discipline even at present throws round the first steps of a deported convict. Under a right system there would be no comparison between the qualities and position, both moral and political, of the two classes; and much more useful, I am persuaded, both to the Colonies and Mother Country, would be

an appropriation of Local Revenue to aid in largely bringing out bond, than free.

16.—In regard to prisoners, if too well treated, loitering in probation, it would be easy directly to prevent this, either by making a certain advance indispensable under pain of loss of marks, or, which would be the same thing, limiting the credit of the several parties at the stores to a proportion only of their real earnings. Viewing the case prospectively, however, I would object to both measures. To force men through the training process might defeat its whole object by dismissing them before their habits of honesty, order, and moderation were confirmed;—and to introduce into these schools of *moral* influence any important branch of *physical* necessity, would be, in truth, just by so much to narrow the sphere for the beneficial exercise of higher principles. My own policy would be quite the reverse. I would take care that the comfort by any means to be attained in the training stations should not exceed what was strictly befitting laboring men;—and if the probationers preferred this, (with a strict constraint constantly maintained over them, and a character thrown round them which, however alleviated, could never be quite pleasant) to the Settlers' service, it would merely prove to me that the latter wanted training also, and that, through this means, they were receiving a useful hint to treat their servants better. Liberty is sweet;—and the want of kindness and consideration must be very painfully felt indeed in a private family, to make it less eligible, as a residence, than even the most improved version of a public gaol.

17.—When a party was finally discharged it would be easy to impose whatever restrictions might be

deemed desirable on the immediately succeeding conduct and associations of the individuals composing it. (No man, for example, need be suffered to depart till he had a service engaged :—he might be compelled to remain in his first place a fixed time, unless on sufficient cause shewn ;—he might be prohibited from serving any master for the first twelve months who had been himself a prisoner ;—or he might be declared ineligible to obtain his higher ticket, enabling him to become himself a master, unless a certain proportion of his time in the inferior grade was satisfactorily served with masters who had always been free, &c.). Yet on principle I would strongly deprecate the multiplication of such restrictions ;—for unless imposed with extreme judgement and caution they would, I am persuaded, do much more harm than good. They would be a mere relic of the existing wretched system, under which enough is never thought to be done if a man can turn without permission. Like it, they would bring the Government regulations into constant collision with the wants, wishes, and feelings of the general community ; —they would thus fret and irritate the mass,—be frequently productive of extreme individual injury and hardship,—perpetuate invidious distinctions,—and thus re-open wounds, and cast back on evil habits, which the kind, conciliatory, and improving character of the previous arrangements had closed, and caused to be in a manner forgotten. No termination could thus, I think, be more unsuitable to an originally *social*, and *morally influential* system :—nor, if carried to an extreme, could any, I am confident, go so far to undo its work. It would transmit the taint, probably without the vigour, of that which now exists ;—and by the mere distrust

which it would proclaim of the reforming powers of what is proposed to be substituted for it,—(a distrust which I, for one, do not in the slightest degree entertain)—it would even directly invite responsive deceit and disobedience.

18.—I would, on the contrary, strongly advise that the spirit of the system already begun should be continued unimpaired to the end,—a spirit offering encouragements, rather than imposing restrictions,—seeking to gain the will, rather than fetter the body,—making the rewards of good conduct *certain*, rather than the punishment of misconduct *probable*. For this purpose I would fix a period (say two or three years), when, in the absence of indictable offence, the lower class ticket should be exchanged for the higher *of right*, (for I think it very important, as entire freedom is approached, that the men should be familiarized again with the idea of rights, and not continue to the last subject, however remotely, to arbitrary favor or discretion.) The absence of police offence also should in a fixed ratio shorten this period;—length of service with one master, with a satisfactory certificate from him, should further abridge it,—if in a confidential situation further still,—and, to encourage moderate demands, even the rate of wages received, if below the current value of the service rendered, might be made to bear on the entire period required. Gradations of value might be further given to the higher ticket, according to the circumstances in which it was obtained. To many who do not aspire to be masters the mere privilege of becoming so if they please would be but little encouragement to continued exertion and self-denial;—but to this might be added various privileges,

according to the time which the holders occupied in serving for it, and the consequent earnestness and steadiness which they evinced in seeking it. These privileges might be eligibility for employment under Government, as constables, watch-house keepers, under clerks, &c.,—or certain advantages in entering hospitals, or in old age,*—or even early complete liberation;—and as regards the last in particular I would even be free where a wish was strongly expressed *(and evidenced by good conduct in order to obtain permission)* to leave the country, either to return home, or to settle elsewhere. After fully expiating early guilt, and fully establishing a new character in a Penal Colony, if a man, either under strong recollections of home, or a strong contracted dislike of the associations of his punishment, craves to leave them, I think that facilities should even be afforded him, under uniform regulation, to do so. With a right system of management the very best men that might thus be withdrawn from the Colonies could easily be spared:—and per-

* There is nothing that strikes an observer on arriving in the Penal Colonies so much as the excessive pressure on the government patronage, and the utter helplessness of old age and infirmity, in them. In new countries, where wages are high, and labour in request, one would expect it otherwise; but various causes tend to produce the effect. The dissipated habits of the lower classes lye at the root;—these are fostered by high wages, and other causes which will be considered more at length afterwards;—and the severity of the labour generally required further throws out old or infirm men,—the able-bodied being alone qualified to undertake it. Savings Banks and Benefit Societies should be more patronized, in order to counteract these causes; and I think that encouragement should be further given to the introduction of coarse woollen, and other domestic, manufactures among the labourers, partly to steady the young, and keep them from ale-houses, partly to employ the old. In nearly the same state of society the Scotch peasantry derived much advantage, and of the same kind, from domestic weaving.

haps no regulation would regenerate so many (now reckless) hearts,—or sustain so many under present suffering,—or so much revive their patriotism,—or confirm so many in the line of conduct which, it should be well understood, could alone compass such a result.

19.—With a system of management thus prosecuted in the same spirit to the conclusion,—a system consulting each individual interest, studying each individual feeling, yet looking beyond the present gratification of any, and setting the moral and religious improvement of all ever before it as the paramount object of its regulations,*—a system kind in spirit, but uncompromising in principle, and from the very nature of its machinery undeviating in administration,—I should not fear any subsequent association of the prisoners among themselves; and on the contrary, with all respect for the free settlers I will say it boldly, I should fear much more in the beginning from their coming under them. In training stations conducted as I have attempted to describe, there would be a

* There can be no true happiness, or even comfort, without virtue; and the true philanthropist desires *improvement*, therefore, *in preference to immediate comfort*,—or rather, he only desires the latter if it be a means to the former. This is the reply to pseudo-philanthropists, who would make *exile* the only *punishment* in transportation, and would cast criminals ashore on tickets-of leave the instant they arrive in the Penal Colonies. This would be unfair to free emigrants, who are equally *exiled*,—it would be unfair also to the Colonies whose interests are entitled to more consideration,—and above all it would be most cruelly unfair to the majority of the men themselves. It would be the opposite extreme to the present system, and only less bad than it, inasmuch as it would not directly deteriorate but only abandon,—not put its patients in an elaborately organized pest-house, but leave them to die of their disease. I am confident that a great and enlightened nation like England, now that its attention is fixed on the subject, will neither continue the present hospital practice, nor adopt such a substitute for it.

loftiness of aim, a distance of object pursued, a subordination, accordingly, of present inclination to general principle, and an external impulse to the maintenance of that subordination,* to which, on leaving them, the prisoners might find a counterpart in those who had been themselves at one time subject to the same discipline, but scarcely among those who knew little, or it might be nothing, of the principles or details of such a school;—and a collapse might in some cases ensue from the mere change of external circumstances, and the loss of long accustomed countenance and support. Yet even in the commencement, and in the abstract, I should fear this the less from the great resemblance of the domestic arrangements of the proposed training stations to those of ordinary life, the same character of impulses governing both, and these being merely directed more steadily and systematically in the one case than in the other. And progressively, I would confidently expect the character of private service in the Penal Colonies to become more and more adapted to succeed, and carry forward the lessons taught by a moral system like that proposed, precisely as this became better known and appreciated. The relation between masters and servants in these Colonies is at present productive of almost unmixed evil to all concerned,—and the system of discipline by which it is supported is in no way morally more deletereous than by its complete indifference to *personal* reform as an ultimate object, and its consequent sacrifice at all times of moral and improving principle to temporary expediency.* This not only lowers the standard of moral

* I here allude especially to its rewards for blood, and for informa-

worth generally, but gives masters an indifference for the moral improvement of their servants, provided they can make them answer their immediate purposes. Under an opposite system, however, an opposite effect might be implicitly relied on. Did masters see the Government make personal reform its *chief* object, even the most indifferent of them would soon seek to share in so good a work. Their emulation would be stirred to join in it; nor would they miss their reward. Inculcating the subordination of impulse to principle on their servants they would speedily extend the rule to themselves. They would learn what they seek to teach :

tion generally, and to the whole system of its Convict constabulary. I do not dispute the expediency of these under the existing system ; but I think that no stronger proof need be given of the essential error of that system than that under it any such expediency should be considered imperative. Their principle is shocking, and I confidently assert that their ultimate operation is not better. I lately saw a petition from a prisoner, setting forth that he was " a good hand at shooting, and requested therefore, that he might be employed against the bushrangers, that he might obtain some indulgence." A prisoner was also taken up some years ago on his way to assassinate a gentleman strongly opposed to the government, " in order," as he said, " to gain his emancipation." These are not individual anecdotes, but traits of a class. And I believe the convict constabulary to be most vexatiously officious, both as regards the free and bond. I believe this because it is the current opinion, and also because it is consistent with human nature. " Je passais les nuits à deplorer mon malheur, et les jours à suivre un troupeau, pour eviter la fureur brutale d'un premier esclave, qui *esperant d'obtenir sa liberté, accusait sans cesse les autres pour faire valoir à son maitre son zèle et son attachement à ses intérêts.* Je devais succomber en cette occasion." (FENELON.) Nor is this picture less real, because it is introduced into a fictitious narrative.

I repeat, then, that I do not dispute the immediate expediency of these portions of the existing system ; but I detest, and deplore, the system itself out of which they grow. Can a good tree bear such fruit? Or can such fruit exist without tainting the moral feeling of the community amidst which it is produced? It is impossible. (See p. 38, l. 5.)

—they would set examples, not merely rehearse maxims. The angry controversies, the vehement personal and political quarrels, and the unfair advantages sought by almost all in turn to be taken of all, and which at present strike the calm observer with wonder what can be the moral malady of which the symptoms are so painful, would all disappear together;—and so far from the moral condition of the Penal Colonies being a matter of question, its superiority to all others would be regarded but as the natural result of a state of society of which from its constitution the moral improvement of their fellows was a paramount object with all ranks.

20.—Nor are such views necessarily "visionary," because they have nowhere yet been realized. The reciprocal action of different classes of society on each other is an undoubted moral fact; and according to the law of its operation, it would be utterly impossible to produce a material change, whether for good or evil, in any one, without correspondingly influencing all the others. But besides this the communication of moral impulses to the human mind is a science yet in its infancy, but from which too much scarcely can be augured. It began in modern times with improving our plans of Education; it next altered the mode of treating Lunatics;—it is now slowly pervading the discipline of the Army and Navy;—it will next modify the treatment of Criminals;—the diffusion of free institutions is rapidly extending the demand for it,—for without the power of subordinating impulse to principle by means of moral influence, the government of free states must soon become a chaos;—and the restlessness now evident in so many of our British Colonies

is daily pressing this demand closer and closer upon ourselves.* Let no one, then, pronounce anticipations founded on such a state of things "visionary," who considers the triumphs of modern physical science, and at the same time the still higher field, and higher elements, here laid before him. But on the contrary, let those whose vocation it is to think of these things,—whose duty it is to watch over, and influence, the happiness of communities, the welfare of their fellow-men,—who should anticipate what may do them good, not repudiate it because it is novel,—let such open their eyes to the great powers thus placed within their reach,—let them aim high by their means,—let them confide in the materials on which they are to be exercised,—let them not impute to them the consequences of their own errors,—let them enter this beautiful field of experiment in a humbler spirit, the spirit of modern physical experimentalists, who by its means have raised their respective sciences so high,—and let them acknowledge error when convicted of ill success. In the aggregate the laws of mind are as immutable as those of matter, and may be as confidently relied on.

21.—My own impression is that of all the principles by which the human mind can be stirred, those of association with chosen comrades, and of hope, mutual interest, and mutual tuition, in their society, will be found the most efficacious elementary ones. (I do not now speak of religious instruction, but of its aids). These will come home, I think, easily, naturally, and persuasively to the heart and intelligence even of the very hardened and corrupt, (who, in truth, as observed

* This subject is resumed in a future Chapter, On the Introduction of Representative Governments into the Australian Penal Colonies.

in a previous Chapter, frequently exhibit their effects even when only casually subjected to their operation):—and they will create a sympathy with general objects, and a zeal in their promotion, on which almost any thing may be afterwards founded, even in the most selfish and worthless in original feeling and purpose. Yet important as I undoubtedly consider this position, it is inferior to the far higher one (from which alone, indeed its own importance flows), that it is the mind, and not merely the body, that should be aimed at in all *restraining*, as well as stimulating, processes;—that nothing is gained which is enforced by mere physical coercion,—or rather, that whatever may be supposed to be so gained is far more than balanced by what is certainly so lost. How like a truism does such a sentence read! How impossible does it appear, on paper, and in the abstract, to dispute it! Yet when we come to apply it, how disdainfully, in almost every sphere of life, do men in power usually turn from it! How constantly do they plead an exception in their own particular case! "Circumstances are unfavorable, or the materials on which they have to work are bad!" To the unskilful, or the indifferent, were they ever otherwise?

ON THE MANAGEMENT OF FEMALE CONVICTS.

It is universally considered in the Penal Colonies that the female prisoners are more unmanageable, and less retrievable, than the male;—and in an official paper respecting them I lately saw an opinion expressed that they are not "available subjects for prison discipline at all." With which sentiment I thus far cordially concur, I do not consider females suitable subjects for the peculiar specimen of prison discipline at present exhibited in these Colonies,—for no man can bring himself to flog a woman, or work her in irons, or otherwise use excessive violence towards her;—and thus a purely coercive system breaks down, in regard to her, precisely where it is most desirable that the treatment should be efficient, viz., in extreme cases. But I cannot believe that the female character is really less corrigible than the male,—or that it is not equally, if not even more, accessible to *moral* influences,—or that, however fallen, it is not worthy of any labor so to recover it. It would seem to me treason to humanity to entertain a doubt on any of these propositions.

The processes, then, by which the object is to be obtained appear to me the same in the one case as in the other;—and in regard to females they only require modification in the spirit, and in some degree also the extent, of their application. They must be more gently, and considerately administered,—for the

pressure which only bends an oak may altogether crush a willow ;—and they ought also to be organized with a distinct reference to the circumstances in which English female delinquents usually stand, and to the peculiarities of feeling and character thus imposed on them. I believe that in their descent from innocence to vice English women are, almost without exception, more sinned against, than sinning ;—their fall is, notwithstanding, greater than that of most men ;—it is less easily retrieved ;—they are easily made sensible of this ;—they are thus easily made penitent ;—but as their spirit alternately rises and falls under a sense of lost condition (though of injury *sustained* rather than *committed*), they are also easily led into fresh excesses, as either feeling predominates, or old temptations are again held out to them. Thus, however, they deserve *punishment* less,—and they require it less ;—but they require *support* and *encouragement* more. They are especial subjects for Transportation,—(for removal from scenes and associations in which the brand of past guilt is irremovable from them, to others in which it will operate less strongly to their disadvantage) ;—but in these they should be cared for with almost paternal kindness and solicitude,—not treated as they now are, as though unworthy a thought or regard,—household drudges, to be so employed while not pregnant, and when they become so, to be returned to Government until relieved. The imagination of Englishmen at home cannot even conceive the degradation, and consequent deterioration, to which their country-women are thus subjected in the existing Penal Colonies ;—and from which the very best,—the most fortunate,—the free female servants themselves, cannot altogether

escape. For the tendency of all societies is to settle into forms, from the conditions of which no individuals can altogether emancipate themselves; and the ordinary relations between different classes, however the units forming these classes may in themselves differ, yet ever largely influence the fate of all.

The objects, then, which should in Penal Colonies be especially pursued in regard to female prisoners are these. Sorrow for the past should be excited and cultivated,—but it should be mingled, almost from the first, with hope for the future. The processes to attain both should be of a *moral*, not punitive, or *coercive* character. The earlier steps, as with the men, should, however, be in seclusion,—a Magdalen seclusion, in which moral and religious instruction and exhortation should be largely mixed with tuition in such arts and occupations as extend the sphere of usefulness, and consequently give future independence. At a certain period, which might partly be fixed by the original sentence, but should also depend on conduct and proficiency, they should pass from this to greater freedom, (both might, or might not, be under the same roof, as most convenient), where they should rise by the gain and economy of marks, but have the same permission also to expend them, as the men. They should come to this, perhaps in pairs, or parties of three or four, but not, I think, more, unless experience shews an advantage in it. (I would not lose sight of the *social principle* in regard to them;—but selfishness is not usually a female vice;—and self-reliance, an instinct in men, requires, on the contrary, cultivation in women, especially those who have already shewn weakness in this respect.) At this point they should

be seen at church, and be encouraged to dress respectably, and even becomingly, there, at their own expence in marks, but not after any pattern, or under any specific command. (Female vanity, like every other instinct in either male or female bosom, has its legitimate sphere and application ;—and it cannot be better directed than towards the recovery of female self-respect.) At a further point, they should be also permitted to receive visits, and to see and be seen, whether sought as wives,*or household servants. And

* In my Official Papers I suggested for consideration the question, whether a moral benefit would not ensue by making sentence of transportation in England carry with it, under certain restrictions and reservations to prevent abuse, sentence of divorce also,—so that *women*, coming out to these Colonies might, as a general rule, be at liberty to form a connection in them, which has been found in almost all cases, (see Note p. 22) to improve the character of both parties to it. And without wishing to press again this question now, I must say that I am not myself convinced that it should be answered in the negative by any argument I have yet seen against it. The arrangement might conduce somewhat to deter females from crime at home ;—it would relieve *innocent* husbands and families there from a disgraceful connection which could only injure, and might eventually ruin them ;—those who could not prove their innocence might be deprived of their relief ;—women coming to the Colonies would be much more likely to do well, and be instrumental in making others do well ;—and otherwise the temptations to which they are exposed to become altogether profligate and abandoned, and drag others down with them, are almost irresistible. The great difficulty lies in the sense of religious obligation required to be overcome both by the lawgiver and culprit ;—yet where a divorce is allowed at all. or the pains of civil death are imposed at all, a transportable felony might, I think, entail them without great violence, when the advantages are so many and great. I am confident that at least the principle of sending only single women out is a most important one ; and whenever the object of improving the individual becomes (as it ought to be because inferring all others with it) the paramount one, it must be attended to.

at length, each step being gained by the accumulation and economy of marks, they should be entitled to their tickets-of-leave, and release, whether so engaged or not;—though from the period when permitted to be visited, they ought, I think, to be allowed immediately to accept eligible offers of engagement, if made to them,—and it were much to be wished that their first return to the world should, in all cases, be to a certain home, if even only for a short time.

This is the outline of management which I would suggest; and the details might be variously modified. I would recommend the several Female Asylums, or Penitentiaries, not to be very large, or imposing, but rather to be attached, one to each Training Station, and thus to be even on occasion moveable. (The women should be distributed, as well as the men, to facilitate engagements on their release; and a limited and guarded occasional intercourse between the sexes ought to precede their return to society, where the checks on its abuse will be necessarily less strong. Besides, the power of usefully and economically employing the women will depend much on the stores provided for the supply of all;—and these latter will be also maintained more cheaply when enabled thus to purchase for marks, as well as sell for them.) In the domestic economy great care should be taken not only to avoid wounding the natural feelings of womanhood, but even sedulously to cultivate them. The Superintendents should all be of their own sex;—their employments should be feminine; they should not be subjected to vulgar and unfeeling gaze;—and their affections should have a limited scope assigned to

them by permitting the presence of pet animals and other living things, to nurse and take charge of. It is by attention to little matters like these that moral victories are gained. The work of destruction may be accomplished by hasty strides,—but of renewal only by slow degrees. Even in the physical world the same remark is applicable.

I am convinced that a great many most excellent women might thus be recovered, even out of a class condemned at present to hopeless degradation, and which drags down with it its not less reckless and degraded male companions. The influence of women, for good or for evil, is, as it ought to be, extreme;—and it is almost suicidal for society to act in regard to them as it now too often does, first inadequately protecting them from the influence of its vices, and then deliberately crushing them under the weight of its contempt.

And the principles thus involved will be found to apply to the recovery of boys also from crime; and would scarcely, I think, fail to succeed, though in degree more or less, with all. In all operations founded on them, however, as adverted to above, the agency employed should be of a minute, and even commonplace character, and owe its importance to the lofty aim contemplated in its combination, and the skill, consequently, and comprehensiveness of view, with which it is directed. Unusual arrangements startle, if, indeed, they be not always essentially unwise,—for the aspects of society are merely the indications of its nature, and what is uncommon, is, therefore, for the most part, unfit. Hence the nearer any particular

arrangement, or combination, of men or women, can be made to resemble their previous social life, the more easily can it be made to work uniformly, and the more certainly will it attain its end, if it tend towards that end at all;—while the converse of this is also generally true,—for the more dissimilar the more difficult to work, and the less likely to attain any good,—whence probably, among other causes, the total failure of the existing slave system in the Penal Colonies, (labor without wages—under severe, yet capricious, coercion, —without a choice of masters or occupation,—without good words, or any other moral stimulant), Englishmen being in no degree " to any such maner born." In this way, however,—condemned to use only common instruments, in their common way, and to advance, at only their common pace, the framer of a system of moral influence, unlike the contriver of a mere fabric of coercive violence, (which delights generally in striking details), is minute, patient, inventive, persevering, and *steadily hopeful* even under many discouragements. He is not desirous of mere mechanical results,—the obedience of children to a severe and vigilant master. His aspirations are of a much higher character;—he desires to develope other minds with his own,—to obtain their intelligent assistance,—and enlist their zeal, and their inventiveness, in aid of his own. He has thus no petty jealousy about innovations and departures from his own peculiar plans;—and even rubs and checks in his career do not disconcert him,—for either they are insignificant when compared with the enterprise he has in hand,—or they are seen not really to injure, but to aid it, by exposing a diffi-

culty, a snare, or, it may be, a mistake. Friction has its uses in moral, as in physical mechanics, (though this is seldom so readily recognized); and as frequently creates a new power, or a means of transferring one already acquired to a new sphere, in the one case as in the other.

PART II.

ON THE MOVEMENT OF CRIME IN VAN DIEMEN'S LAND.*

The Movement of Crime in Van Diemen's Land is one of the most painful, but at the same time most instructive, portions of the picture which I am compelled to exhibit of the practical effects of the present system of Convict Management, in order that I may succeed in recommending its abolition for a better. Notwithstanding the strictness and vigilance of the police of this Colony, (perhaps even by means of it)—notwithstanding the length of time during which the prisoners have for the most part been subjected to its minute supervision, (or perhaps by reason of that too),—notwithstanding the decided tendency of the age to moral improvement,—and notwithstanding the great influx of free settlers into the Colony within the last ten years, and the high personal respectability of most of them,—the proportion of crime and disorder to the entire population is not only very great, but appears in many particulars even to be on the increase. My own opinion is that this latter fact is owing to the *increasing* unsuitableness of the existing system of discipline to the state of society amidst which it works, precisely as that state becomes otherwise advanced and improved,—for " in the infancy of society many acts of arbitrary

* This Paper, with some unimportant difference, was Note C. to my Official Report on Convict Discipline; and as a corroborative document appears to me of great importance.

authority are submitted to, and are really innocuous, or even advantageous, which as civilization increases, and population becomes dense, and a sense of private right grows to be strong, become in the highest degree injurious and deteriorating."* But be the value of this solution what it may, at least the facts are undoubted, being taken from some highly important and interesting Statistical Returns for Van Diemen's Land, prepared from Official Documents immediately before the late Lieutenant Governor's departure, and embracing the period of his administration, viz. from 1824 to 1835 inclusive.

From Number 33 of these, it appears that convictions for drunkenness were in 1824 as $3\frac{77}{126}$ to 100 of the whole population, and in 1832 as $9\frac{231}{290}$. Convictions under penal statutes of free persons in 1824 were as $5\frac{57}{60}$ to 100, and in 1832 as $7\frac{86}{151}$; and general misdemeanors by convicts in 1824 were as $11\frac{8}{59}$ to 100, and in 1832 as $43\frac{67}{127}$. After 1832 the returns are differently made, and the several heads of offence are multiplied;—yet with few exceptions the same general fact is evident. Thus drunkenness among the convicts in 1833-4-5, was as $4\frac{33}{149}$, $4\frac{44}{155}$, $4\frac{66}{169}$, respectively to 100. Among free people it was in the same years as $11\frac{29}{182}$, $13\frac{59}{220}$, $14\frac{46}{115}$, to 100, (while the tendency, as is well known, in English society, unless in peculiar circumstances, has been rather steadily during the last 10 or 12 years towards sobriety.) Felonies disposed of

* Quoted from one of my Official Papers, in which these words are made to apply to the question, whether a new system should be tried rather in a new, or old, Penal Colony.

summarily were in like manner in 1833-4-5, as $2\frac{38}{149}$, $4\frac{119}{155}$, $3\frac{161}{169}$, to 100. Misdemeanors among convicts, as $7\frac{48}{43}$, $12\frac{406}{377}$, $11\frac{33}{67}$, to 100; among the free, as $1\frac{123}{192}$, $5\frac{15}{22}$, $3\frac{69}{115}$, to 100;—and what are called various offences, not included under previous heads, as $1\frac{295}{344}$, $3\frac{40}{377}$, $4\frac{299}{408}$, to 100.

Table 31 gives in like manner a return of the convictions, within the same period, before the Supreme Court and Quarter Sessions; and exhibits certainly a singular want of general result as deducible from this source alone,—there being no improvement, for, on the contrary, 1832-3-4 are among the worst years of the whole series; yet as little is the deterioration without exception, 1835 being again above the average. I subjoin the numbers as they stand, adding a column shewing the population each year, to make them more intelligible:—

1824	124	12,643	1 in $101\frac{29}{31}$
1825	152	14,512	$95\frac{9}{19}$
1826	159	15,312	$96\frac{16}{53}$
1827	164	17,133	$104\frac{11}{152}$
1828	102	18,404	$180\frac{24}{51}$
1829	191	20,265	$106\frac{19}{191}$
1830	233	24,504	$105\frac{13}{78}$
1831	223	26,830	$126\frac{13}{75}$
1832	302	29,079	$96\frac{287}{302}$
1833	363	34,450	$94\frac{109}{121}$
1834	606	37,799	$62\frac{75}{202}$
1835	381	40,283	$105\frac{278}{384}$

In considering which numbers, however, several observations occur. 1.—The ratios, throughout, to the whole population are enormous, convictions in England

being scarcely 1 in 1,000 inhabitants, and in Scotland only 1 in 1,300. 2.—The extreme vigilance of the Van Diemen's Land Police tends to prevent the commission of great crimes, while the latitude given to its summary jurisdiction makes it unnecessary to bring medium offences under the cognizance of the higher Courts. 3.—The pecuniary prosperity of Van Diemen's Land has unquestionably been on the advance within these years;—and it is distress rather than mere dissipation, which prompts to grave offences.

It may be said, however, that the apparent increase shewn in petty crime is in reality only an increase in its detection, arising from increased vigilance and efficiency in the Police;—or (in correspondence with the latter part of a previous remark) there may be an increase in the number of crimes on *its* records arising from an increase in the extent of its jurisdiction. But whatever weight may be attached to such considerations they are very far from accounting for the whole facts. The excessive severity of the police sentences in Van Diemen's Land, and the inconvenience which they frequently inflict on masters, have together, on the contrary, a strong tendency to cause an increased *impunity*, rather than *certainty* of punishment, at least among convicts,—a tendency consistent with my own observation,—expressly stated in a memorial lately addressed to the Lieutenant Governor by the Agricultural Society of Richmond,—confirmed by Messrs. Backhouse and Walker (see p. 28),—and agreeing with the very low proportion of drunkenness above stated as prevailing among the prisoners, compared with the free population. And the latitude given to the police

jurisdiction, though certainly great, is not such, probably, as even to counteract this influence in keeping down its lists of crime.

Taking these lists, then, exactly as they stand, and comparing them with others, though they report the moral condition of a mixed population, of agriculturists as well as town residents, they will be found to contrast to extraordinary disadvantage with those of the most crowded capitals of Europe. In London, for example, the state of petty crime in 1833 is thus reported in the Companion to the Almanack.

"The whole number of charges brought before the Metropolitan Magistrates by the new police during the last year (1833), amounts to 69,959, shewing a decrease compared with the previous year of 7,584 offences. A very large proportion of the charges are also of a very minor character; and out of the whole number it appears that no less than 27,000 have been dismissed by the magistrates as unsupported by proper evidence. The largest items in the catalogue of offences are drunken charges brought before the magistrates 11,393. Drunken charges discharged by the superintendents 13,487. Disorderly characters 5,721. Disorderly prostitutes 3,427. Assaults 5,721. Larcenies 7,858. Suspicious characters 3,201. Vagrants 6,757."

And in comparing these numbers with the population of London (1,274,800 in 1831), and contrasting them afterwards with those found in Van Diemen's Land several remarks should also be made. 1.—Those committed for further trial in London (who on an average of recent years are elsewhere stated to be at present about 3,400) should be excluded, because they appear

again in other lists. 2.—Vagrants should also be excluded, for in a Penal Settlement there can be none such. 3.—And in strictness all cases discharged should be excluded, the table for Van Diemen's Land shewing convictions only.—Yet, waving all these exceptions, the amount in London, every petty offence included, is little more than 5 per cent. of the population: and allowing for them it is under 2: while in Van Diemen's Land under the head of drunkenness alone it is above 14 per cent. even among the free population.

There is, however, another way also, by which an unfavourable conclusion is unhappily arrived at. Table 29 of the same collection gives a particular detail of all offences tried before the Supreme Court between the years 1824 and 1835; and as the proportion between crimes against the person and against property is well known to constitute a sort of measure of civilization, England is justly proud that the proportion of the first to the last is in her Judicial records as 1 to 31. In Van Diemen's Land it is as follows:—

1824.....	42.....	82	or nearly as 1 to 2
1825.....	27.....	114	..... 1....4
1826.....	33.....	118	..... 1....4
1827.....	28.....	131	..... 1....5
1828.....	14.....	86	..... 1....6
1829.....	24.....	167	..... 1....7
1830.....	35.....	131	..... 1....4
1831.....	31.....	45	..... 3....4
1832.....	45.....	93	..... 1....2
1833.....	22.....	142	..... 1....7
1834.....	22.....	144	..... 1....4
1835.....	19.....	76	..... 1....4

No. 31 gives a somewhat more favourable view of this particular feature, including, as it does, Quarter Sessions convictions, as well as those before the Supreme Court; and as the difference between the two gives a sort of measure of the growing latitude which has been given to the Quarter Sessions jurisdiction I add this also. This Court was established in May 1825:—

1824.....	42.....	82 or nearly as	1 to 2
1825.....	30.....	132	1 .. 4
1826.....	34.....	125	1 .. 4
1827.....	30.....	134	1 .. 4
1828.....	14.....	88	1 .. 6
1829.....	24.....	167	1 .. 7
1830.....	45.....	188	1 .. 4
1831.....	50.....	173	1 .. 3½
1832.....	53.....	249	1 .. 5
1833.....	22.....	341	1 .. 16
1834.....	35.....	571	1 .. 17
1835.....	39.....	342	1 .. 9

The consideration, however, of a few particulars will very much modify the favorable conclusions which may be thus drawn. 1.—With the Quarter Sessions jurisdiction has also grown up that of the Police; and its Courts dispose summarily of a great many offences against the person, but very rarely, if ever, so intercept the more regular disposal of crimes against property. 2.—An analysis of the respective offences, (for which the means are appended at the end of the volume),* will shew that while the diminution of offences against the person, where it occurs at all, is in libel and murder, offences which a strong state of the law naturally

* See Appendix.

restrains, its increase is marked in assaults, assaults with intent to ravish, cutting and maiming, &c. ;—and in like manner that the diminution in crimes against property is in arson, burglary, and housebreaking, which a strong police naturally prevents, while the increase is prodigious in embezzlement, larceny, receiving, and other offences of that nature. 3.—It should also be observed that transported prisoners are naturally, and ought to be relatively also, much more disposed to commit offences against property, than against the person. Their early habits have been chiefly those of trespass against property; and placed in the midst of strong allurements, without wages, or other means of indulging in them *honestly*, the temptation to procure them *dishonestly* is really so very strong, that instead of being surprised at the amount of this description of offence which appears in these tables, I am positive that a great deal more really occurs than is thus made manifest, and that the impunity which such offences too often receive is not one of the least pernicious consequences of the system out of which they grow. (See p. 38, l. 3.) 4.—Yet seeing that, notwithstanding, there is a large proportion of offences against the person, it is a peculiarly strong indication of there being a constant extreme pressure against the temper and feelings of the mass of the community ;—which, from the various circumstances of the case, is indeed undoubted,—and not solely from above down, but not less from servants upwards, and between equals also.

Such being the results, then, of these tables, it is worthy of remark, moreover, that during the whole

time thus referred to, but especially in the latter years, considerably above half the population has always been free; and of this amount at least a half more has consisted of Government officers, wealthy settlers, and their families, who have swelled the population returns, but contributed nothing to these sad results. How great, then, must be the relative amount of crime among the remainder! How severe must be the sentence of transportation, especially to young criminals, and those convicted of slight offences, when it condemns them to such associations! How peculiarly hard is it on the lower classes of free Immigrants that they should be thus placed in circumstances which seem almost to sentence them to yield to low animal temptation! And how imperative is the demand, for every one's sake, to have these circumstances revised, and as far as may be altered!

In the prefatory remarks appended to the tables thus quoted from, the increase in petty crime is, indeed, admitted; but it is suggested that it is probably owing to the number of convicts who now annually become free, as the periods of their sentences expire, and who thus exhibit, as belonging to the free, vices which are peculiar to the prisoner population. But even granting this to be to a limited extent true, it is still but a mere analysis of the facts, and makes them in no degree either less painful, or alarming. The cause thus assigned is not a temporary one. It must continue while the existing convict system continues; and if such are the necessary results, then is it not imperative to re-examine the arrangements connected with this, and consider how they may be improved, so

as to avoid this consequence of them? Neither is the necessity for this a light one. The Australian Colonies are no children's toys. From their position and capabilities they must eventually command, to a great extent, the whole Southern Hemisphere, India itself included;—and surely the fact, that with their growth they are degenerating in social and moral virtue, deserves energetic attention and action, and is very inadequately met by a mere analysis. If the convicts are incorrigible on any system, and the period of their freedom must thus be the period of their license, at least they should now be given another, and less hazardous direction; but if, on the contrary, (of which I entertain not the least doubt), it is possible, under a better system of treatment, to improve them greatly, then does the case cry for that improvement from every consideration both of policy and duty. It would be a crime to leave them as they now are, and also a mistake; *plus qu'un crime, ce seroit une faute.*

ON THE PREVALENCE OF DRUNKENNESS IN VAN DIEMEN'S LAND.

In the Estimates for the current year (1837-8), laid on the table of the Legislative Council in Van Diemen's Land, it will be seen that the police absorbs one-fifth of the whole Income of the Colony, while the proportion assigned to moral and religious instruction is a twelfth only;—and in existing circumstances, no fault can be found with these figures, for the one is probably as little, and the other as much, as under the actual system can be respectively so appropriated. Yet they indicate the proportions in which, under that system, force and persuasion, the wind and the sun, (to use the words of an old fable), seek in this Colony to strip the traveller of his cloak. And on the faith of that fable we need scarcely enquire whether the cloak is so stripped; for, we may be assured, that it is thus only made to wrap the closer—or in other and less figurative words, that the system in question is itself the fruitful parent of above half the vice and crime which it seeks to repress and punish.

Q. What is the most ordinary offence in Van Diemen's Land, and the occasion of almost every other?

A. Drunkenness.

Q. What causes so much drunkenness?

A. The misery of the lower classes of the population, whether bond or free; caused to the first by the seve-

rity, and other incidents of the Penal laws ;—and to the second by the difficulty and degradation which they have to encounter by competing in the labour-market, with the gratuitous convict labour furnished to the settlers by the government.

Q. What are the peculiar recommendations of drunkenness as a gratification to miserable men ?

A. The means of indulging in it are easily obtained ; they are soon swallowed ; and they procure a temporary oblivion of their cares.

Q. How then was drunkenness once so prevalent in the British Navy ?

A. Because the discipline was then unnaturally strict in it too.

Q. But some years ago, the seamen in the Navy gave up half their allowance of spirits without a murmur—how was this ?

A. Because even before this took place the discipline was more than proportionately relaxed ; and the sacrifice was further accompanied by the grant of other and more substantial indulgences.

Q. And some English merchant ships are now even sailed on Temperance principles—how is this ?

A. Because, in these the consideration for the substantial comfort of the seamen is carried further.

Q. And this practice is even common in American ships ?

A. Yes ; because the seamen in them are frequently engaged on shares ; and being thus part owners, their comforts are still more regarded.

Q. But drunkenness is said to be still a common vice in the American men-of-war ;—how does this happen ?

A. Still on the same principle. The American Navy is only slowly imitating the British in consideration for its people's comforts. It still flogs severely,—stops leave,—stops grog,—and compels unnecessary exertion to gratify the love of display, or whim, of the commanding officer. The men drink, therefore, as all men will do in similar circumstances, to drown care.

Q. What, then, is the Penal lesson to be gathered from this recapitulation?

A. It cannot be too much, too often, or too energetically insisted on. When we punish, and must, therefore, make men unhappy, we should do it where they cannot get liquor; and on the other hand, when we bring them in contact with liquor, if we would preserve them from crime we should do what may be possible to make them comfortable,—and to give them the power, the leisure, the lightness of heart, and by consequence the inclination, to enjoy other and higher pleasures, than the debasing and demoralizing one of intoxication.

Q. But would this system accord with the objects of Transportation?

A. Undoubtedly, for it would both *punish* and *reform*, the precise purposes for which Transportation was devised.

Q. But would it be in accordance with human nature?

A. No one can rationally doubt it, who considers the previous examples.

Q. Would it partake of the character of the wind, or the sun, of the fable?

A. It would be the Sun of Salvation, in every sense of the word, to thousands and tens of thousands, of

unhappy wretches who are now buffetted by the wind of the existing system, and to whom it is tempered, shorn as they are to the quick, only by such snatches as they are able from time to time to make at liquor and oblivion.

Q. And who could make this sun to rise?

A. Any Governor of a Penal Colony who may warmly and earnestly recommend the subject to the consideration of the Home authorities, whom I know to be well prepared to entertain it;—any influential statesman at Home, who may in the like spirit investigate the documents now being sent thither regarding it;—or any much humbler individual, who may patiently, but earnestly, continue similar representations till they are attended to.

Q. And what would be the reward of any such individual?

A. It may not be summed up. He will have relieved the greatest amount of moral suffering and injury that ever was inflicted by Englishmen on their countrymen, born free like themselves, many of them comparatively innocent, and none of whom deserve to have further vice and crime inseparably added to their other punishment;—he will also have substituted for this mass of evil, much good, for the number of those improved by a judicious system would probably exceed that deteriorated by an injudicious one;—he will have extracted a canker which is now eating into the vitals of powerful and infant Colonies;—and if these benefits are acknowledged by his cotemporaries his estimation among men will be in proportion to them.

Q. But suppose they are not recognized during his life,—what then?

A. His own conscience will supply all deficiencies.

Nor is drunkenness the only vice, the prevalence of which may be thus distinctly traced to the incidents of the existing Penal Code. On the contrary, there is scarcely one of those which most abound that may not be equally so affiliated. Irritated feelings, insubordination, recklessness, quarrelling, theft, and prostitution, are almost its inevitable consequences. Does it repress crime then, or create it? I think that there can be but one reply, when all things are thus considered.*

* The above dialogue was a sort of postcript to one of the papers sent home in September, 1837; and besides being, perhaps, too informal and rhetorical for that occasion, I am not unwilling now to admit that it takes a somewhat narrow view of the question which it seeks to solve. I am still persuaded that much of the drunkenness which prevails in the Penal Colonies is due *solely* and *directly* to the system of prison discipline maintained in them; but not alone to the *misery* which this inflicts, but also in a great measure, to the low animal inducements which even its kindness holds out to good conduct (see p. 26.),—to the destruction of self-respect which its treatment of the prisoners, and the competition of their gratuitous labor with that of the free, impose on the whole laboring classes alike,—and to the irascible and reckless feelings which it thus cultivates in all. When I think of all these things, I confess that I do not so much wonder that there should be many drunken, as that there should be any sober. I would scarcely venture to answer for my own steadiness in the same circumstances.

In fairness, at the same time, I ought to add that I have received a more direct dissent from my opinions on this subject, from a valued Correspondent, than on any other. I entirely differ from him, both in observation and sentiment, and think that he attaches far too much importance to the temporary dissipation which leisure and opportunity sometimes occasion on board ship, and high animal spirits on first landing from one. These, I think, in any excess, will not bear comparison with drunkenness in the midst of a man's ordinary avocations; but with this expression of my own dissent my friend shall speak, without further comment, for himself:—

"My opinions on drunkenness differ in many points from yours. I

do not deny that there may be causes in operation which here, as elsewhere, may drive a certain portion of our society, free as well as bond, to excessive indulgence in intoxicating liquors to drown care;—but it is my firm belief that, in nine cases out of every ten, the habit is acquired in Britain, and not in Van Diemen's Land; and that, with nine-tenths of the drunkards of this Colony, it has in reality led directly or indirectly to their emigration, or transportation, as the case may be. I have known numerous instances of drunkards (often young men) being sent to this Colony from England by their friends—its very remoteness being thought favorable. Every vessel that came to our shores, at one time, brought its freight of drunkards more or less;—and in one vessel, out of fourteen cabin passengers, I knew six or seven to be confirmed drunkards when they arrived in the Colony,—and in the steerage nearly an equal proportion. Such regular and continued importations (and it *still* continues as I lately saw in Hobart Town) of *respectable* drunkards must have had a sadly demoralizing influence on the society of our Island. As many of these became masters the evil extended, for they could not punish their servants for that offence. I have heard of a master who at certain times made all his men drunk, and *kept them so* for a week.

"With the lower free classes and convicts the habit is still more universally acquired previous to their arrival in the Colony. With the latter indeed it has very generally led to the crime for which they were transported; and with almost all a continued indulgence in intoxicating liquors was considered essential to drown their perceptions of the inevitable consequences which would follow their career of vice.

"In my opinion drunkenness is *rapidly* on the *decrease* in the Colony with all classes, but more particularly the free. The increase in the number of convictions of late years arises in a great degree from every instance of inebriety in a free or ticket-of-leave man being pounced upon by the police.* The latter indeed sometimes escape *by still higher bribes to the constables, fearing the loss or suspension of their tickets.* Drunkenness is so rare in Launceston that months may pass without a case offending the eye of an ordinary walker of the streets. On the roads leading from the town bullock-drivers, and a few others, may frequently be seen wholly or partially intoxicated, but which may be traced both to previous habits, and that the opportunity seldom occurs except when on a visit to town.

"Indeed, without denying that drunkenness exists to a great extent, I conceive that our defective system (and defective undoubtedly it is) is not the sole, nor indeed the principal cause of the prevalence of this vice, *although it may tend to confirm and continue the habit when once acquired.*"

* See note, p. 124.—A. M.

ON THE EMIGRATION OF FREE LABOURERS TO VAN DIEMEN'S LAND.

The Island of Van Diemen's Land is not nearly peopled up to what it could bear;—it is not deficient in capital;—and the spirit of its inhabitants is rather over speculative than in any degree timid or slothful. Yet free labouring emigrants to it, especially of late years, have been almost universally disappointed. They have found the openings to useful and profitable exertion few, and very difficult to enter;—other circumstances have also opposed them;—very many have lost heart and taken to drinking;—others have gone to Adelaide, Port Philip, and Sydney;—few, very few, are really contented and thriving. How does all this happen? I have already adverted to some of the causes; but a more detailed exposition of them may be otherwise useful.

1.—Labouring emigrants usually come to this Colony in too great numbers together. This operates to their disadvantage in many ways. They are collected in England as the agent employed is best able to find them, and some are necessarily both very poor and bad; they are all treated alike, however; and the worse thus pull the better down, both in their own estimation and that of others. The leisure of a subsequent sea voyage strengthens the influence, already commenced, of the bad over the good;—they have usually

led the more adventurous lives,—they have less regard for truth,—and are thus the more entertaining companions. On their arrival, the number in the market together prevents their being readily absorbed amid the population,—the less good, however, getting the soonest off, for they are neither so shy nor so difficult. A premium, as it were, thus continues to exist on wildness and profligacy. The tendency of all points downward; and in some respects even the exertions made by Government to push off the successive ship-loads are injurious to them. They give them that pauper character, which has already procured them the name of pauper emigrants, and which speedily communicates to them, also, pauper feelings and demoralization.*

2.—The circumstances of the labor-market in Van Diemen's Land are also singularly adverse to the moral character of free laboring immigrants into it. The demand for free labor is not as yet great in it, the proportion of prisoners to the means of employing them being considerably greater here than in New South Wales. The tendency of speculation among the settlers has also of late years been rather to Port Philip, than to develope the resources of their own Island. And the recent fall in the price of wool has embarrassed some proprietors and for a time checked

* The observations in the above paragraph have received a remarkable confirmation almost as they passed through the press, in the facility with which eight agricultural labourers, who worked their passage out in the *Coromandel* prison ship, immediately procured engagements, at wages, besides board and lodging, varying from £18 to £30 a-year. Coming in a small party, and not professed emigrants, with merely ordinary qualifications, they were immediately absorbed. Whatever their future fate, they have thus at least started fair.

the enterprize of all. Employment is thus even abstractly scarce; but the labor-market is also otherwise embarrassed. Society is in a highly artificial state in Van Diemen's Land. Prisoner labor abounds in it. It is very strongly coerced. It is thus more manageable than free labor by men unaccustomed to the use of *moral influence* in the domestic relations of life. It has generated bad habits both in masters and servants,—in the one imperiousness,—in the other every description of trick and shuffle; and free immigrants do not immediately reconcile themselves to either, though their usefulness and comfort in private service much depends on their doing so. Finally, the accommodation for agricultural servants in Van Diemen's Land is almost universally of an inferior character. There are few villages in which they can reside with their families; and the huts which accommodate the prisoners are extremely repulsive to free men, masters being at the same time unwilling to admit families under their roof. An early separation between the nearest and dearest kindred is thus nearly universal among the free immigrants.

3.—Like all the other incidents, also, of that extraordinary specimen of social combination, the existing system of convict management, these circumstances bear hardest on the best men. The shy, proud, reserved, sturdy British yeoman is crushed to the earth by them; his manliness as much repelling an imperious demeanor towards himself, as his kindliness and honesty unfit him to treat harshly, or otherwise cope successfully with demoralized prisoner servants. His domestic feelings also sink under a separation from his

family, and the thought of his little ones being scattered amidst a vicious and degraded community;—while his personal pride equally revolts against his own association with such, and their frequently successful competition with him for beneficial employment. None of these feelings, and but little even of his incapacity, are shared by the more reckless and dissolute of his companions, who have probably already experienced many changes, and are so much the better prepared to accommodate themselves to more.

In this case, then, it appears to me, that Government at present does too much at the beginning,—and that it is pressingly required to do a great deal more at the end. I do not think that any agents should be employed at home to enlist emigrants. When a fixed number is to be made up at fixed periods, there will always be unworthy admitted;—and the mere circumstance of people being thus collected, and cared for, and marshalled, and scrutinized, by a Government officer, impairs their independent feelings and deteriorates them. But every Collector of Customs in the kingdom should be authorized to allow a certain drawback, equivalent to a free passage, to every emigrant of a particular description proceeding to certain fixed Colonies, between which and the Mother Country a bridge would be thus maintained, without, however, the Government undertaking to find passengers to cross it. And, on the other hand, the bridge being thus built, the Government is bound to see that it shall not lead to destruction—that the Colonies are fit to receive free laboring emigrants without corrupting them. This the Penal Colonies cannot do at present; but this they

soon could do—were only those changes made in the system of managing convicts there, which have been already fully detailed,—and their labor-markets were thus restored to a healthy and natural state, without the presence in it of domestic slaves, or slave-incidents.

THOUGHTS ON THE INTRODUCTION OF REPRESENTATIVE GOVERNMENTS INTO THE PENAL COLONIES IN AUSTRALIA.*

The present charter of the Penal Colonies being about to expire, and it being generally understood that the question of extending to them representative Governments is under the serious consideration of the Ministers of the Crown, I take the liberty of bringing together a few thoughts on this subject, suggested by a personal knowledge of some of our Colonies, and a little reading and reflection on the political state of them all. So many advantages attend a representative Government,

* This Paper was written in April 1836, before I left England, and when the growing troubles in Canada, and the approaching termination of the Charter of these Colonies began to fix attention somewhat closely there on the questions which it attempts to discuss. The alterations made in it since are few and unimportant, and chiefly appear in the form of notes.

Next to a change in the system of convict management in these Colonies, they appear to me to be more in want of Representative Governments than of any other political improvement. They want, in truth, to shake off the taint of discretionary administration in whatever shape, and whether exercised by themselves on others, or by others on them; and they ought to be made as much as possible to assist in bringing about such a change in their domestic polity themselves, that they may be made early familiar with the discussion of the principles involved in it.

For this purpose it seems to me extremely desirable that their assent, as well as mere submission, should, if possible, be obtained to any change that may be made in their convict system;—and, *provided* that

—it has been so successful in England,—and is consequently so popular with Englishmen and their descendants, that it is difficult not to approve generally of its

change abolish domestic slavery, and substitute for it the ordinary relations between masters and servants, and consequently the ordinary aspect of society, in free states, a representative system of government should *early* follow, that the local communities may themselves share in the task of accommodating the local laws to the new state of things. With a right apparatus for *morally influencing* both free and bond, and a little tact and patience in those to whom the task of accomplishing the entire change may be confided, not only will the process, I am persuaded, be found perfectly safe and easy, but the result, I venture to predict, will be one of the most interesting and instructive within the whole compass of morals or administration.

When I first witnessed the vehemence, impetuosity, and peremptory bearing of the Van Diemen's Land public on every trifling occasion of difference of opinion, however highly I thought of many of its members individually, I did not consider it, as a body, fit to be trusted with a strong direct controul over its government. But as I gradually appreciated more and more justly the virulence of that multiform poison to which it has been so long subjected, and to which, for many reasons, I have not attempted in this volume to do any thing like full justice—(for I have only sought to expose principles, although the individuals administering evil ones cannot themselves altogether escape their contaminating influence),—my opinions became correspondingly modified;—and I now think that, *take away the continued influence of that poison*, not only might the communities of the Penal Colonies be trusted with direct political power with the greatest safety, but also that such a trust would eminently conduce to their rapid and complete recovery from whatever impress of the contagion they at present certainly bear.

Much must depend, especially at first, on the perfection that may be given to the moral apparatus by which the "*sic volo, sic jubeo*" of the present system, whether addressed by the government towards the free, or by the free towards the bond, shall be substituted. But, with reverence be the simile used, Free Institutions are like the Holy Sacrament, it is not necesssary to withhold them till men are worthy of them, for their possession shortly makes worthy. And the wealth, patriotism, and intelligence of the Settlers in the Penal Colonies may safely be trusted not long to remain wrong when enabled to manifest their opinions *in action*, however pertinaciously they sometimes appear to maintain error *in mere argument*.

introduction almost every where. Yet it certainly has not uniformly worked smoothly in the British Colonies; and some of the inconveniences arising from it are at this moment sensibly felt in one of the most important of them (Canada). How does this happen, then? What have been the circumstances through which it has thus failed in uniformly producing loyalty and harmony? And can any means be devised by which an opposite result may be secured in a new case?

To me it appears that the error in most, if not all our Colonies, has been that the example of *Mixed Monarchy* in the mother country, on which the several experiments have been founded, *has not been followed out with sufficient exactness.* The extreme parts which enter into the composition of Society and Government in England have been given;—but the intermediate links by which they are made at home to work harmoniously have been omitted. Monarchy and democracy have been brought into naked contact; and they have not agreed just in consequence of this crude juxtaposition. The gradations of civil rank have been few in the Colonies; and the prizes held out in them to those who might recommend themselves to the favor of the Local Governments have been equally few. Governors have seldom had either honors or employments at their disposal with which to operate on the natural feelings of the more active resident population;—or when they have had them, they have not been sufficiently alive to the importance of giving them this destination. The members of their Executive Councils, in particular, have been, for the most part, such *ex-officio*,—or, at all events, they have held office by a totally different, and much more secure, tenure, than

that possessed by a Cabinet Council in England. It has been accordingly unusual, and in most cases impossible, for a Colonial Government to maintain its purpose *gently*, but *firmly*, by sacrificing an unpopular, or employing a popular, individual;—and Colonial officers, holding their situations independent of their success in administration, have been too often deficient in the patience, courtesy, and consideration for minute interests and feelings, which create and preserve *Influence*. Appeals to the Home Government have been consequently frequent;—but amidst the pressure of nearer business they have been often overlooked. Abuses have been accordingly retained long after they have been complained of; and the very reason for this has been an additional offence and source of discord; for "why," have the Colonists said, "should we retain allegiance to a power which has not leisure to attend to our representations?" Dissatisfaction with the tie to the Mother Country has thus frequently grown up amidst the best intentions on all sides,—merely because the frame-work of Society and Government has been incomplete,—because the wall has been built without mortar,—the machine been constructed without provision being made against the effects of friction. And the results of a *mixed* monarchy have not been produced, just because some of its most important elements have been wanting,—the means, namely, of gently, but continuously, influencing the lower by the higher, the higher by the lower, orders of Colonial Society.

And it would be easy to illustrate this view of the case by examples; but its substantial accuracy being obvious, it seems more to the present purpose to consider how far the Penal Colonies in Australia are fitted,

and even peculiarly require, to be made the theatres of a different experiment.

In my opinion they are both eminently fitted for, and especially require it. They are distant, insular, and peculiarly circumstanced;—and on the one hand they need not thus be fettered by neighbouring precedent, while on the other they furnish abundant reasons of excuse, if not even substantial argument, for some peculiarity of institutions. They are also exclusively English in their composition, and already large proprietors exist in them in sufficient numbers to constitute the rudiments of a local aristocracy,—who, at the same time, will not be long content with the form, without the substance, of domestic authority. The commercial importance of these Australian Colonies, moreover, makes it nearly certain that their local revenues will always be sufficiently ample to maintain a system of Government on a really monarchical footing; though the tendencies of their inhabitants are at present rather democratical,—and already in New South Wales the hope of future independence has been expressed. If not checked, therefore, by other circumstances, the introduction of Representative Governments into them will merely give strength and stimulus to these feelings; and without in the least knowing the views of Government on the subject, I shall yet venture confidently to predict their issue by the rule afforded by the preceding observations.

In giving Representative Governments, then, to the Penal Colonies of Australia, I would earnestly recommend that the pattern of the Mother Country be followed *as closely as possible*. There is even a subordinate reason for this;—for Englishmen are in the

main proud of their native institutions, and many speculative objections to details would be considered sufficiently answered by quoting such a precedent. But now to some particulars.

There should be two Houses of Assembly, an Upper and Lower, through both of which all measures should pass, and be approved by the Governor, before being acted on as laws. In important cases the approbation of the Home Government should also be required for their confirmation; but this should rarely be refused. To be long and satisfactorily worn the tie should hang light.

The Members of the Upper House should be appointed at least for life, and by the Governor, subject to confirmation at home. Great care should be taken in the first nominations that really the principal people are chosen,*—much abuse having prevailed in some of the Colonies on this point; and the members of this House should be distinguished by some title, (as Honorable, or even more, for I am certain that the introduction of titles into the Colonies would be a salutary measure, and I could almost wonder that so *monarchical* a support, admitted in Ireland, should have been

* The French in their existing Constitution have a qualification for nomination to their Upper House,—the holding certain offices, or stations in society, or the having been twice elected into the Lower one. (See Bulwer's Monarchy of the Middle Classes, vol ii, p. 315.) In constructing a new consitution, especially a Colonial one, valuable hints may be taken from the modern French; but they are not so good examples of letting well alone. Their Educational Establishment is at the same time an exception to this remark. It was originally contrived by Buonaparte; and its intrinsic excellence, *where a strong case requires to be met by a strong central power*, has carried it through all subsequent changes unharmed. It seems to me thus well calculated for the Penal Colonies.

so long withheld from more distant Governments).* They should also have a dress, or badge, assigned them, which they should be required to wear on State occasions, and may be encouraged to wear at other times :— (if we wish to preserve a monarchy we must not despise its *insignia*). They should be kept comparatively few in number, for many reasons; but not with so strict a limitation as to prevent a Governor from at any time gaining a troublesome, or useful, politician, or changing his sphere, as the views of his Government may require. Certain public officers should either *ex-officio* be members of this House, or on their nomination be habitually called to it;—and should Judicial functions be attributed to it, which I should think expedient for many reasons, the Chief Justice would be its natural and appropriate Speaker. (The habit of occasionally sitting in judgement would give dignity to the proceedings of the House; the nature of the discussions which would in consequence find a place in it, would elevate the tone of thinking and speaking among its members; and a convenient court of appeal and impeachment,—subject of course to the revision of the Sovereign in Council at home, but the composition of which could scarcely be clamoured against,—would be interposed between the ordinary Supreme Court and the Home Government,—the convenience of which need scarcely be insisted on).

The members of the Lower House should be elected by the community, and considering the spirit of the times I think that a good deal of liberality should be here shewn. In particular the disqualification of classes ought as much as possible to be

* See Note (A) at the end of the Chapter.

avoided,—(for excluded classes speedily unite in discontent and dissatisfaction); though, at the same time, considering the composition of society in the Penal Colonies some restrictions seem indispensible in them, not less to give satisfaction to the Colonists themselves, than to provide for the character and respectability of the Government.

In a succeeding paragraph, I give my views on this subject at length; and shall only here observe that the objects to be contemplated seem to me to be these. 1.—Really, truly, and *bona fide*, the popular voice should be admitted into the acts of legislation; on this head no deception can be permanent. 2.—Provision at the same time should be made that this voice should at first be, directly at least, only that of the most respectable of the people. 3.—The exclusions made should be of persons, not of classes. 4.—The existing electors, not less than the Government, should be made responsible for these exclusions, so that clamour arising from any individual cases may not attack the latter alone. These objects seem to me, each and all, of great importance.

With regard to qualification to be elected, besides requiring that every candidate should be himself an elector, I would suggest, though with some diffidence, that it would be perhaps possible, and if so, it would certainly be advantageous, to require a testimony of moral and religious worth, as well as of other fitness. Habits of communion with some religious denomination or other might, with this view, be well required; and the respect for religious ordinances which would be thus diffused among the upper ranks would favourably influence the lower also.

The functions of the two Houses should, as nearly as possible, be those of the Lords and Commons in England; and the forms of business, with perhaps some simplification, should also be the same. The guards against precipitate legislation, so widely established at home, should be carefully preserved; and the influence of public opinion on both Houses should be provided for by making their deliberations open and public. *Ignotum pro malefico.* No deliberative body can either long influence, or be influenced, amid free institutions, if the individual opinions of its members remain permanently secret.

Besides the above two Houses, the Governor should have a small Executive Council, not composed of *ex-officio* members, but resembling the Cabinet Council at Home, and consisting of such individuals, colonists or others, as he may from time to time choose to call to his immediate confidence. They should be also removable at his will. *Ex-officio* they should have the privilege of sitting and debating in both Houses,—but without votes, unless otherwise members of them. (The want of such a privilege has been often felt as an inconvenience in England, and it would be even more required in Colonies, where the supply of men of talent and leisure must always be more limited.) They should have salaries as Ministers, and their tenure of office, besides the Governor's will, would naturally be their success in preserving the confidence and goodwill of the Deliberative Assemblies.* (I have carefully

* They would not thus be Colonial Secretaries, Treasurers, &c. frequent changes in which offices would be extremely inconvenient. But these offices would be made purely ministerial, like permanent Under-Secretaryships at home.

read Sir Francis Head's argument in Upper Canada against an Executive Council thus constituted; and am quite willing to concede to him that none such exists at present. But his reasoning against their introduction appears to me unsound both as regards premises and conclusion. A Governor is a King, though with a somewhat more limited discretion, and more direct and limited responsibility; and even if he were merely a minister, why should he not have persons about him entitled to offer him advice on all subjects? The claims of delegated authority in this, as in so many other cases, exceed those of the power from which it emanates; and it also appears to me that much of the argument to which I thus allude, applied to what was never claimed by the Council against which it was directed,—viz. the power of actually *controuling*, and not merely *advising* the Governor.*)

Concurrently with the Representative Assemblies, I would also strongly recommend the establishment of Municipal, and other similar institutions, for the purpose of local government and regulation. District boards, such as are thus formed, are of extreme utility in many ways. They maintain the gradations of civil rank; they expend the desire of self-government, which always grows up with Free Institutions; they encourage local improvements, and prevent those in remote districts from being overlooked by the government; they give the better classes the habit of meeting and seeking to *influence* their inferiors, with a percep-

* See also Note (B.) at the end of the Chapter.

tion accordingly of the advantage of allowing themselves to be in like manner led and *influenced* in ordinary cases, by those above them ; they thus train men of business for higher functions ; and in a word are most valuable aids to all forms of Free Government. (For their working in detail, see De Touqueville on Democracy in America.)

But in the Penal Colonies in Australia they seem to be especially required, for through their means I think a secure and respectable constituency could easily be obtained. The specific precedent which for this purpose I would recommend, is the Scotch County System of Commissioners of Supply. These until lately were certain freeholders of the several counties, who under this name transacted its ordinary business ;—and it is of great use when a numerous body of men are occasionally brought together for a somewhat exciting purpose that they should have the habit of meeting at other times for humbler and quieter objects. The Australian Penal Colonies, then, being divided into suitable counties or districts, the government should name the more respectable proprietors in each to be Commissioners of Supply (or to discharge their functions by whatsoever name designated); and the elective franchise should be one of these functions,—one of several. The appointments thus made should be for life,*—and their number would at first necessarily be limited (for a few years it might even be very

* To lead and influence them, and also further to graduate rank, they should have Lieutenants and Deputy Lieutenants among them,—again exactly as at home.

limited without inconvenience),—but it should be well understood that whatever names were afterwards recommended to the Government by a certain majority of the existing Commissioners of any district would be generally added to them without difficulty (though the Crown might with propriety retain the power of a negative in an extreme case); and, on the other hand, it might be conceded that appointments to this franchise by the Crown which were objected to by a similar majority would be always re-considered,—or in other words in most cases not insisted on. By this means progressively a numerous constituency would be formed, yet in almost every supposable case the individuals composing it would be respectable;—and although *practically* persons of doubtful character, or low station, or estimation, would be excluded, no free class would be under ban. The excluded, also, could scarcely complain very loudly, at least of the Government, if they could not prevail on their own neighbours to vouch for them; and indirectly this arrangement might prove even a powerful means of creating harmony in the country districts, for it would give every man an interest in acquiring the good opinion of his influential neighbours.

In the Penal Colonies as every where else, the next most difficult thing to arrange, after the franchise, would be the revenue. The Government, especially at first, should be neither quite dependant on the popular will, nor altogether independent of it. The first would be immediately troublesome; and the second by creating dissatisfaction would be eventually troublesome also. Besides, much more money can always be obtained

from a well-managed *popular assembly* than can be levied under a *government fiat*;—and few greater drawbacks can be entailed on the prosperity, especially of a new country, where many public works are required, as roads, bridges, &c., alike beyond the reach, and sphere, of private enterprize and capital,—than a penurious public expenditure, controuled and directed according to the views of men at a distance, and which those on the spot are not in the habit of enlarging and guiding.

Two plans occur by which the chief difficulties would, probably, be evaded. The respective Colonies might be held bound to pay a certain fixed sum annually, to be raised as they pleased, and to be considered as their *minimum* contribution to the wants of Government,—subject to be enlarged by a specific vote of the Representative Assemblies, on adequate cause shewn;—or the Crown might retain certain of the most stable imposts as a hereditary revenue, subject also to be increased by a specific vote. Each plan has its advantages, and disadvantages.

Were the Colonies allowed to raise their revenues as they pleased, more real business, and a wider scope for legitimate discussion, would be provided for the representative bodies. And this is of great importance, both as furnishing occupation for the time, and calling into exercise the higher faculties, of the members of these Assemblies. According to this plan also, the fiscal system of each Colony could be at all times easily adapted to the changing views and circumstances of its administration;—and the chief objections that I see, are:—1. The difficulty of binding a Colony to a

specific perpetual payment, for which the funds are not also perpetually fixed;—and, 2.—The difficulty of fixing any sum which shall not either be too large now, or rapidly become too small, as the Colonies advance. The almost absolute dependance of the Government on the popular will, which *must* come at length in all really free States *might* thus come too early,—*might*,—I say, *possibly*—though I own, that I would not myself fear such result. I have infinite faith in the indirect powers of *reason* and *influence*, provided that the forms of Government are neither too despotic, nor too democratical, nor too nakedly both, to give them fair play. And among the descendants of Englishmen in particular, I would much less fear *their* breaking down, than the failure of a direct delegated authority. Still, the possibility of such an occurrence, unless provided against, should be distinctly contemplated.

The other plan is more simple, and for a time at least, would afford fewer occasions for misunderstanding between the people and the Government. The idea of a hereditary revenue is also a familiar one; but the objections to it seem to be these. The imposts on which it is secured may become unpopular, or inconvenient. The amount raised by them may become excessive. By their fixed and unalterable character one of the highest and most interesting branches of political reasoning, that which treats of the principles of Taxation, would, *quoad* them, be removed from the purview of the Representative Assemblies. The more active and intelligent members of these would not, however, be so restricted; and thus occasions of jealousy and misun-

derstanding between the Government and Representatives of the people would multiply. As in England, the issue would probably be, that the Colonies would at length purchase up the hereditary revenue by a fixed annual payment; and thus, on the whole, it would probably be as well, or better, so to begin.

As a general principle the fixed revenue of the Government should, in the beginning at least, be enough to keep it from absolutely stopping on any occasion of momentary difference;—but even from the *very beginning* it should be below, and progressively even considerably below, what it will naturally wish to expend on purposes of local improvement. A Government based on Representation can only eventually rule by "*influence*;" and of its success in acquiring influence no indication can be more prompt and certain than its success, or failure, in obtaining from the representatives of the people the means of carrying its schemes for improvement into execution. Besides this, the habit of publicly deliberating on proposed improvements before they are executed, and of voting, or refusing, the supplies required for them, enlarges the minds of popular representatives, and gives them a public, as distinguished from a local, or individual, spirit.

These observations could easily be extended, for the subject is of extreme interest and importance, and twice the number of details now adverted to would not exhaust it. But the principle is the essential thing, and I conclude, therefore, with repeating it. To the stimulus to democratic feeling which must necessarily be given by the establishment, any where, of a Repre-

sentative Government, and which in our ordinary Colonial policy we combine with a merely naked delegated authority, we should, I maintain, *universally*, but especially in the case of the Australian Penal Colonies, add the other ingredients of a mixed monarchy; and there are three points of view in which this principle seems especially commendable. 1.—It would obviously make the Government of these Colonies more easy; and there are elements in them which will require every possible facility that can be devised to be extended to the governing authorities whenever Representative Assemblies shall indeed be accorded them. 2.—It would thus also probably prolong their tie to us. 3.—If introduced into their government, it would set an example, which if successful, might be followed elsewhere; and this last consideration seems to me of extreme importance. The great prosperity of the United States has given a republican character to the patriotism of colonists all over the world,—unhappily, as I think, in many cases, for them, as for us,—for undoubtedly the long infancy of the South American States is due materially to their jealousy of whatever individual merit has arisen among them; and the genius of Monarchy, and of our British Constitution, stands thus at present, as it were rebuked before that of Republicanism, as though it belonged essentially to a ruder and less intelligent age, and could not now reproduce itself. It were worthy the enterprize, therefore, of a British Statesman to prove that this is not the fact; but that freedom, content, and prosperity, can sit under the shade of recently formed, as well as of old Monarchical Institutions. I have

endeavoured above to shew that the occasion for such an attempt is in the Australian Penal Colonies at this moment peculiarly appropriate ;—and I earnestly hope and trust that it may not remain unimproved.

NOTE (A.)

TO P. 166.

It is easy to cast ridicule,—(not "the test of truth," but "the artillery of small wits),—on suggestions like those in the text above referred to:—and I am aware that they are also directly opposed to the views of a numerous and influential class of political reasoners, who wish to discard every thing but Reason from their political armoury, as though the human mind were not endowed with feelings and impulses not less valuable, in their place, than its reasoning powers,—much more extensively and equally distributed,—(whence alone may be deduced an argument in favor of their practical utility),—and which are for the most part deemed even the more amiable and interesting, because not at all times subjected to their control. But the question at issue is far too important to be yielded either to a bad joke, or to what is, in truth, in its exclusiveness a direct specimen of bad reasoning. One of these parties scoffs at the *abuse*,—the other desires to fling away the *use*,—of some of the finest and noblest sentiments of our nature:—and a better position than is possessed by either may be taken up between them.

Titles and insignia are, in their theory, as the impress of the Mint on gold,—the attestation of the highest authority in the State to intrinsic worth within;—and that practically, in the one case, as in the other, this testimonial is occasionally found affixed to base metal, is no argument against the continued, well-regulated, use of either. They themselves may, therefore, be dropt without further notice;—for the real questions at issue are, whether it is desirable, or otherwise, that the Sovereign of a community should have the power of thus from time

to time proclaiming his sense of individual merit or eminence, —whether individual merit or eminence, whencesoever derived, (from birth, wealth, qualities, &c.), should, or should not, be thus taken out of controversy by a nominal, as well as real, distinction,—or, in other words, whether the existence in a community of a *recognized* aristocracy is beneficial to it, or not?

As regards the interest of England to maintain monarchical institutions in her Colonies while herself a monarchy, it scarcely seems to admit of question or dispute; and being, besides, the argument in the text, it is unnecessary further to advert to it here. But writing where I now am, it is of importance to supplement what I say there by a reference also to the interests of the Colonies themselves.

All Colonies, while such, must be monarchies. This is true even of those which may depend on republics, for the mere circumstance of dependance on an authority not growing out of the community itself, nor identical with it, must give this character even to the most democratical Colonial institutions. A monarchy, however, without an aristocracy, both reason and history tell us, is always an uneasy despotism. Its chief wants the means of *individually* influencing the mass of the community under him, *and of being himself individually influenced by it in turn*;—he wants, accordingly, the feelers by which at all times to ascertain and determine the precise state of public opinion on any given point;—and his very best intentions and wisest acts are thus constantly liable to be misunderstood, and ill-recieved, merely because the apparatus for commanding harmonious action is wanting, and the ruler, and the ruled, are ever before, or behind, each other. Just in proportion also as discussion is free, is the inconvenience of this state of things; for the press, constantly fed with legitimate subject of complaint, becomes unbridled from the habit of discussing it. Dissentions thus widen, and injustice is done on both sides. The people rail at their head; and he,

conscious of the purity of his motives, and, it is to be supposed also, convinced of the wisdom of his measures, denounces them as unreasonable. The presence of a *recognized* aristocracy, familiar with both, and from its position undeniably entitled to be so, would allay the whole. It would make the several parties better known to each other, both as regards their deliberations and actions;—and where good intentions exist on both sides, this is all that is in general really wanted to produce unanimity.

Again:—so necessarily and inevitably do men differ in character and position in society, that as inevitably do they differ in mutual estimation. No equality of political privileges can prevent this;—and when the distinctions are great, or otherwise clearly marked, no inconvenience ensues. But when they are slight, it is human nature, (neither its strength nor its weakness, but itself), that there should be competition; and the existence of a recognized scale and gradation of rank narrows the sphere of this, while their absence incalculably enlarges it. Compare in this respect England with all her Colonies, and the difference of result will be apparent. In England scarcely any have the least doubt about their real position; and though individuals may wish themselves higher in the social scale than they really are,—and their desire so to rise may excite them to a degree of useful exertion which neither money, nor abstract principle, could command,—yet while they are what they are, they do not repine because they do not receive courtesies and attentions belonging intrinsically to higher grades. In the Colonies, on the contrary, where, as far as regards *recognized* rank, every man considers himself equal to every other, it is impossible so to adjust official civilities as to escape censure;—nor is it easy to say, considering the weakness of human nature in regard to this, how much private pain and discomfort, and not less, how much political trouble and inconvenience, are often due to this petty cause alone.

Lastly, the existence of a local Aristocracy in the Colonies, recognized by direct acts of the Crown, and bearing distinctions in virtue of them, would keep down that tendency to Bureaucracy, which in like manner, though but a petty cause, is productive, I am persuaded, of incalculable mischief and annoyance in them. In the absence of all other incontestable claims to precedence, the service of the Government, itself in theory but the servant of all, is advanced to the prejudice of all;—and the anomalies thus often produced would give offence even if the honors were always worn in the meekest possible manner. But it is human nature again that this should not always occur;—and as the weakest are generally also the vainest, it thus not unfrequently happens that important consequences flow from the follies of men who in a better combined state of society could by no possibility produce an effect, whether for good or evil, in any community in which they mingled.

I believe that at present I shall address these observations to unwilling Colonial ears, for the tendency seems to me at present in all the Colonies towards democratical institutions, and modes of thinking and speaking. And I am not quite certain either of their immediate reception at home. But as the science of *moral influence* becomes more studied and better understood,—and especially, as appears probable soon, when it shall come to be applied systematically to the improvement of our Colonial policy,—we may expect to see opinions regarding this question materially modified. And meanwhile, in aid of my own impressions on the subject, I subjoin, from a Van Diemen's Land newspaper which has lately paid some attention to it, (*Tasmanian*, 28th Sept. 1838), a series of quotations from some of the most liberal writers of the day, which all bear with singular happiness on the discussion, though not intended to do so by the respective authors.

"The manners of the French in the time of Louis XVI. had one feature of similarity with ours at present. A monied aris-

tocracy was then rising into power in France, as a monied aristocracy is now rising into power in England. *This is the aristocracy which demands obsequious servility,—which is jealous and fearful of being treated with disrespect; this is the aristocracy which is haughty, insolent, and susceptible; which dreams of affronts and gives them; this is the aristocracy which measures with an uncertain eye the height of an acquaintance; this is the aristocracy which cuts and sneers.*—BULWER'S *France*, vol. i. 91.

"Every man you meet is occupied with maintaining his dignity, and talks to you of *his* position. There is an evident effort and struggle, I will not say to appear better than you are, but to appear *all that you are*, and to allow no person to think that you consider him better than you. *Persons, no longer ranked by classes, take each by themselves an individual place in society; they are so many atoms, not forming a congruous or harmonious whole, &c.*"—*Ibid*, p. 92.

"I particularly fear that various causes are acting powerfully among ourselves, to inflame and madden that enslaving and degrading principle, the passion for property. *For example, the absence of hereditary distinctions in our country gives prominence to the distinction of wealth*, and holds up this as the chief prize to ambition."—*Channing*, of Boston, United States.

"*Among a people whose profession is social equality, and whose rule of association is universal self-government, the traveller is surprised to witness the assumption of a class, and the contempt which the few express for the many, with as much assurance as if they lived in Russia or England.*"—MISS MARTINEAU'S *Western Travel*, vol. iii., chap. 2.

It may be added also as a matter of history, that Hampden, the martyr of English liberty, was prevented from emigrating to America, because he could not persuade his proposed companions to establish an aristocracy, which he deemed essential to good government. Dr. Chalmers, in his Bridgewater Treatise, also points out the adaptation of *recognized* gradations

of rank to promote human happiness and virtue. In a short Treatise, bound up with Archbishop Whateley's first Letter to Earl Grey on Transportation and the Penal Colonies, and which was published with it, this very proposal is recommended with this specific view. And the following quotation from Channing is even singularly calculated to support it, from its accurate description of some of the most characteristic features of the political discussions of the Penal Colonies as those against which the existence of aristocratical distinctions affords protection, but their absence leaves none. Even my own opinion of their value does not go farther.

"But the very want of a permanent and immoveable class, seems to the statesmen of Europe to be the defect of our institutions. There is no rock, they say, to which the ship can be moored; nothing to prevent the wild surges of public opinion from sweeping it from the shore, and exposing it to all the tempests of an angry ocean. IT IS SO. THERE IS NONE. We depend not for security on any resistance to this opinion, but on the correctness of a public sentiment that can need no resistance. So long as our people are well informed and intelligent, there is no danger. The little occasional variations of the public mind are temporary flaws in the wind, that do no serious injury. But let us take care of the courses on which it blows. We have no force but principle,—no other national guards than the moral feelings of the people,—no standing army but the power of enlightened mind,—no police but the civic virtues of free citizens. Everywhere good affections, generous and noble sentiments, disinterested and patriotic purposes, contribute essentially to the public welfare; *but here, without them, society would be dissolved. Jealousy between different portions of our citizens, suspicions of unfair designs, imputation of unwarrantable motives without justifiable cause, gradually undermine the foundations of our national existence; if there were cause, the destruction would be inevitable.*"—CHANNING'S *Discourses, Reviews, &c.* p. 77. London, 1834.

NOTE (B.)

TO P. 169.

I have recently also read with great care the observations of the late Canada Commissioners on this subject (p. 107 of their Report); and I am happy to observe that they, equally with myself, recognize the *principle* of greater advantage being to be gained by popularizing the Executive Council of Colonies, than by strengthening an external check on it, which too often leads to collision and rupture. But their proposed mode of effecting this is opposed to mine; and if intended by them as a general model (which, however, they do not say), would appear to me singularly exceptionable.

A Council of Advice, which they propose, of fifteen members, could scarcely in a small community command the requisite secrecy as to the Governor's plans, while yet undetermined, and when consequently he most wants advice regarding them. The members being selected from different parts of the country would very likely have conflicting interests, or apparently such, and there would be frequently a corresponding conflict of opinion, and difference of object, in the advice thus offered by them. Their number being so great, and no particular tie of secrecy binding them, their discussions would be almost public, and correspondingly tenacious. Yet five being their quorum for business, extreme resolutions might frequently be come to, not by a majority (8) of the whole body, but by the majority (3) of a very small section,—a fifth of their entire number. I can conceive no possible arrangement which, if taken as a general model, would be found more inconvenient, or susceptible of so much abuse. It would cause dissention in the Governor's inmost counsels;—it would perpetuate these;—

it would prematurely disclose them;—it would cause endless jobbing and manœuvre to obtain temporary advantages;—and frequent apparent vacillation in the Government to counteract them.

The opposite extreme to this is the existing Executive Council of the Penal Colonies, composed of five *ex-officio* members,—men irremoveable, irresponsible altogether to the community which they govern, generally without a stake in it, and who meet and deliberate under the strictest pledge of secrecy. This constitution is as much too fixed, as the other is too loose. Its tendency is to prolong abuses, make courtesy and conciliation unnecessary, generate consequently indifference of manner, and despotic feeling,—and so create endless irritation and discontent. But between the two, the long-tried, long-proved, long successful, Cabinet Council of England seems to me perfect; and why not give it another sphere of action?

The Canada Commissioners, and Sir Francis Head suggest two objections to it. They contend that there is so great a difference between a dependent Colony and an independent State, that the analogy fails between their respective governments; and that thus were the constitution given to the first, which works well in the second, the tie of dependence would be broken, and the policy of the Home Government would be made subordinate to the popular favor in the Colony. But I cannot help thinking that they greatly over-rate the value of both these objections.

A Colonial Government is fettered by instructions from home; but an Independent Government is also fettered by inter-national treaties, hereditary privileges, vested interests, constituted establishments, the spirit of a by-gone age strongly impressed on the forms of Government, &c. Neither, therefore, is quite free: and it may be doubted if the trammels on the one, though more direct, are really heavier than those on the other. But how does the one meet its obligations, and how does the other? In England it is sought to reconcile the

community to its obligations by employing those whom itself loves and confides in to enforce them;—and this is thought dangerous in the other, least these should combine with the subjects to throw them off. There is no example of such a course of proceeding. On the contrary, the irresponsible agents of mere power have often leagued against it; but the responsible servants of a rational and free Government, who must, almost at every step, proclaim and justify their thoughts and acts, to themselves and others, never do. Knowing the real restrictions on the free agency of the Government which they serve, and its good intentions to do the best under these restrictions,—they set themselves honestly to reconcile the community to them; and the community in turn, knowing, and confiding in their good intentions, are much more easily reconciled, than when dealing with doubtful and suspected masters.

I conclude, then, as I began. Copy closely peaceable England, in order to pacify and keep peaceable mercurial Colonies. An analogy is not necessarily without value because the cases compared are not absolutely identical;—and in the present instance in particular, the more we dip below *names*, and consider *things*, the nearer, I am persuaded, shall we find the resemblance;—for even as regards responsibility, that of Kings and Governors is in the present day much more to public opinion, than to any administration of pains and penalties.

OBSERVATIONS ON THE TREATMENT OF ABORIGINES IN NEW HOLLAND, &c. *

It is difficult to consider the new Colonies now in the act of being established along the coasts of Australia, without feeling a deep interest in the native tribes about to be brought in contact with them. In every previous instance of such contact these tribes have been deeply injured; to such an extent, indeed, that it has been seriously and in truth, rationally and justly represented to a Committee of the House of Commons, enquiring into the subject, that even the Slave trade, with all its horrors has not been such a scourge to humanity as the English Colonizing system.† Must these things then be here again acted? Because we want their territory, of which, it is true, they make but a very limited use,

* The substance of this Paper was sent in June, 1837, to the Right Honorable the Secretary of State for the Colonies, who has since sent it out with a recommendation to the attention of the several Governors of the Australian Colonies. In January, 1838, it was also printed, nearly as above, in two of the Van Diemen's Land newspapers. The principle of its suggestions is precisely the same with that of all the other Papers,—the expediency of placing men whom we seek to controul and guide, in situations in which good conduct and improvement are easy and natural to them, rather than in those in which the difficulties are so great that scarcely any care, and no extremity of punishment, can prevent misconduct and deterioration. "Travailler avec la Nature" must be the foundation stone of every system of *moral influence*.

† See Dr. Hodgkins evidence before the Aboriginal Committee. Session 1836—7 p. p., 454—8 of its Report.

and which in their hands can never acquire its full value—must these other Black families be exterminated like their predecessors in similar circumstances? Or may not some scheme be devised, founded on the peculiarity of their condition and circumstances, calculated to preserve and improve them, while we also benefit ourselves? And may not some general principles be deduced from this scheme, and others similar, and be employed for trying even themselves—on which Native tribes may be managed generally, with advantage to themselves, and benefit to the European communities settling among them? To these two last questions I beg to offer some replies.

I.—It appears to me that were the natives in the neighbourhood of our Australian Colonies liberally enlisted in our public service, and regimented (like the Sepoys in India, the Black Troops in Western Africa, and the Hottentots on the Caffre Frontier), and thus formed into an active field police, we should be enabled by this hold on them both to preserve and improve them, and benefit ourselves essentially. They would require to be officered with white serjeants and corporals, who should be as much as possible interested in the successful management of their charge;—a light, convenient, and somewhat ornamental dress should be also given them;—and breaking them into small parties, they should be kept much in the field and on the move—at first hunting, with their other duty, but gradually acquiring more and more precise notions of military duty as their education proceeded. Their families, meanwhile, should be encouraged to settle in native villages under our protection;—their general habits should be there studiously improved;—

their children should be educated ;—and their fathers and husbands, who should be frequently allowed to visit them, and who would be receiving their own education at the same time in the field, would insensibly assist in this work. Perhaps one or two mounted commissioned officers should be added to the whole, who, attended by one or other of the little *pelotons* in turn, should ride about to inspect, encourage, train, and keep them in order. And the sum of benefit that might thus be derived, might, I think, be analized as follows.

1.—A much more numerous, effective, and yet economical field police, could be thus maintained than by any other means. It would also be more steadily well-behaved than a prisoner police, otherwise so common in the Australian Colonies. Both natives and stock-keepers would be effectually restrained by it—for from the number and activity of its parties it would be almost ubiquitous. Occasions of irregularity and dissention would be thus kept down, and runaway convicts would be certainly arrested by it.

2.—The relative *status* of the black population would be thus raised in the estimation of the community ; and a more universally civil and conciliatory demeanor would consequently be maintained towards them. This is of great importance ;—human nature is raised by courtesy and respect, and is certainly depressed and demoralized by contempt.

3.—The affections of natives thus treated would soon be warmly engaged, to the whites generally, but especially to the Government so employing and advancing them ; and between themselves and their immediate officers there would soon be the strongest ties. Their

hearts would be proportionally light, and their improvement more rapid. They would be drawn upward both by feeling and ambition. Stupidity, obstinacy, or misconduct, would be crimes, not as regarded themselves only, but as they displeased such good masters; and the silken cord would, *as in every other case*, be more effectual than the iron fetter.

4.—Their erratic habits, (the great stumbling block usually in the way of civilizing savage tribes) being on this system gratified, they would in other respects probably be thus much more teachable and scrupulously obedient than they are commonly found;—and habits of deference to command and direction, not requiring much sacrifice at first, would be confirmed by time, and might then be otherwise, and more highly directed.

5.—A knowledge of, and taste for, European manners and civilization, would be thus extensively, yet silently implanted; and the habits of order, concert, and decorum learnt and practised in the field, would probably sooner pervade their huts, and family stations, than is now thought possible. It is thus that sailors and soldiers almost invariably make good settlers; and the liberated Hottentots settled at Kat-river astonished even the most sanguine by their steadiness and industry.*

6.—The observance of the forms of our religious worship, and gradually a perception of its truths, might thus also be early and extensively diffused. There is no strong counteracting superstition among the native Australians as in Africa and India.

7.—Habits of neatness, decency, and cleanliness,

* Report of the Aboriginal Committee, p. 171, et al.

usually repugnant to savages, yet without which it may be confidently said that no great moral improvement can be effected in them, would be more easily and early acquiesced in when imposed as points of military discipline, otherwise agreeable, than when differently suggested;—and spirituous liquors, and other improper indulgencies, could be thus more easily kept away.

8.—The more distant native tribes, and even the members of the same communities not thus engaged, would be conciliated by seeing and hearing of this considerate, and as they would deem it, honorable treatment of their companions and equals. They would endeavour also not essentially to be left behind them. They would thus copy, as far as they could, their newly acquired habits, manners, and dress. They would try to get enlisted into their number; and for this purpose would recommend themselves to their common masters by activity, honesty, intelligence, fidelity, and such other virtues as were within their sphere. The whole imitative faculties of the race would be thus devoted to good, instead of, as now too often happens, to vice or folly; and the benevolent purpose for which a wise Providence has given to all savages a large endowment of these, viz.—to assist in drawing them up the first steps of improvement, before their reason can be interested in the task, would be then served by them.

9.—The security which the organization of such a force would bestow on the infant communities setting an example of it, need not be insisted on. Surprise and insurrection would be almost impossible with a stirring, active, attached, native guard.

Lastly, it would be something even to try a new ex-

periment, in a field where, above all others, a deviation from old plans seems desirable. It is perhaps a mistake, indeed, to call this plan new, because it is so only as proposing the benefit of the natives for its systematic, though not exclusive object; and otherwise, as already pointed out, it has been partially tried in India, Western, and Southern Africa; and when carefully considered, it will be found also to embrace the principle which cemented and *alleviated* the conquests both of the Romans* in ancient and of Buonaparte in modern times. Yet new in this application of it, it might not, I admit, in the first instance, and while the details involved in it are wholly experimental, accomplish all that is here contemplated from it; but it would necessarily do some good, and lead to more, and much is on this subject required at our hands.

II.—The next question, however, regards the general principles on which this, or any similar scheme, however modified by peculiar circumstances, should in the main be founded, so as to meet either the justice, or expediency of any case; and of these I think the following, not excluding others, are nearly incontestible.

1.—When a new territory is occupied, and the original rights of the natives ranging over it are consequently infringed, the *first* claim to a share of its increased value is surely *theirs?* I do not mean that the proceeds of this should be gratuitously lavished on them (for that would be to injure, not to serve them); but they should be considered as having an admitted right to have such portion freely expended on them, as can really be shewn to be calculated to do them good.

* Report of the Aboriginal Committee, p. 454.

Even when this is deducted there will always be found in judicious colonization a large balance for ourselves; and besides that what will actually benefit the natives will benefit us also, this will give us a *right*, which, without it, it would be difficult to prove that we possess, to appropriate either the land, or the remainder.

2.—The use to which we put the native portion should be of a nature to raise their relative *status* with regard to us, and not merely protect them in their inferiority. The first will make men of them, the second merely contemplates keeping them out of harm's way as children; and I do not think it possible to attach too much importance to the distinction.

3.—Speaking generally, they should be encouraged to *intermingle* with the white population, and be employed *with* them, rather than have separate stations assigned them. It may no doubt be necessary occasionally, where enmity, jealousy, and their dividing and demoralizing fruits have long prevailed, for a time to qualify this position (as for example at present on the Caffre frontier); but as a principle it is not less certain than the others. Intermingling gives the attitude of confidence, separation that of distrust; and the feelings will follow their respective indications of whatsoever kind.

4.—The employments selected for natives under this system, should, as much as possible, in the beginning be analogous to their original habits; yet they should not be allowed even from the first to act in them capriciously. The lighter the early tie the better; but there will be no real advantage gained till it become sufficiently heavy to be distinctly recognized. The first of manly virtues, and the foundation for all others,

is the *self command* implied by the voluntary performance of what is yet felt to be a task.

5.—Much of the benefit to be derived from intermingling them with whites is founded, indeed, on this principle. They will imitate them in every thing, even in early submission to restraint; and the chief care will be that these whites shall give them as few worse, and as many other good, lessons as possible.

6.—In dealing with human beings of all classes and states of society, much more virtue than is often admitted will be found to exist in a distinguishing dress. It operates both as an incentive and preservative; and habits of order, method, decorum, concert, union, are all reinforced by it. Among savages it cultivates also *amour propre*, (self-respect), a useful, sometimes irritable, but otherwise seldom steady principle among them. They are themselves, indeed, so sensible of the direct effect of a dress that many have a particular one for different occasions.

7.—When some little authority can be blended with usefulness in employment, I am persuaded that there will always be found an advantage. Hence, though I would by no means insist on all savages, however different in circumstances, being treated precisely as I recommend the Australians to be, I yet think that the police will be found, generally, a good employment. (It has been found to answer extremely well on a small scale among the Van Diemen's Land Aborigines in Flinders' Island; and although less successful in New South Wales, that arises chiefly from the peculiarly imperfect manner in which it has been there tried). It should be a *preventive* rather than a *remedial* police,

however; and I am certain that this distinction will be found an important one.

8.—Wherever savages are employed, as much attention as possible should be paid to their own distinctions of rank. (Castes, on the contrary, I should be rather disposed to intermingle). Their chiefs should thus be made officers, or otherwise superior to, or equal with, some whites; and equality and amalgamation should in this way be stndied as much as possible, without any factitious distinctions or difference even in the mode of protection. I most cordially agree with Captain Stockenstrom's opinion,* that Protectorships are bad things, as implying inferiority; and that the forms of justice and protection should be the same to all.

9.—A sincere, and not merely assumed, interest, should be taken in natives thus sought to be brought in. They cannot long be imposed on in this respect; and giving their own hearts, as they will all do, freely, their disappointment and resentment, when indifference is shewn to their *real* grievances, will always be proportionate. Their diseases therefore should be energetically attended to, their marriage ties and domestic usages should be respected, their children should be noticed as well as educated, their sports, and even in moderation their jokes, should be smiled at, their superstitions, if they have any, should be discouraged, and not rudely trampled on. Some tact, some firmness, some intelligence and discrimination will no doubt be necessary to draw a precise line between these attentions and an undignified compliance with pure caprices, which

* Report of Aborigines' Committee p. 187.

will impair respect, and do harm rather than good. But there is no task in life the successful execution of which is not more or less dependent on the presence or absence of these qualities; and the proportion of them required here is not more than is requisite to make a good father, master, officer, or to fill creditably any other situation in which human beings are to be *influenced* as well as controlled.

10.—Their superstitions, then, while retained, should be respected; but systematic efforts should be at the same time made to wean them from them, and convert them to Christianity. Setting aside all higher considerations, (which yet are themselves imperative), there is no bond of social union stronger than a community of worship, nor any civilizer like a perception of Christian faith and morals. I am very strongly opposed, however to anything approaching to compulsion in this department. It is said that some Missionaries in the South Sea Islands compel their Neophytes even by blows to attend their ministrations; but such devices belong essentially to men who desire the outward form of obedience for their own gratification, and are comparatively indifferent to the moral impression which they may, or may not, make. Mr. Daniel Wheeler,* when he confirmed this anecdote to me, added "that he found in his Bible that on one occasion our Saviour had scourged out of the Temple, but not that he had so compelled any into it;" and I most cordially assent to the commentary thus suggested. It

* A most estimable member of the Society of Friends, lately returned from visiting, I believe, all the South-sea Missions, and some places to which they have not yet penetrated.

is the heart that is here wanted, and compulsory measures always alienate it. It is *bread* that should be sought to be given,—not a stoney ceremonial, inspiring no attachment, counteracting no superstition (or other evil influence), exciting no enthusiasm; and thus really unable, however excellent that which it represents, to contend successfully with any belief, however absurd, which, from its accommodation to the rude intellects entertaining it, is yet in them a living principle, and by so much better than any dead image.

11.—I am also of opinion that in attempts to civilize and convert native tribes, systematic efforts should be always made to teach them English; and that translations, even of the Bible, into their own language are of very doubtful utility. The Creator himself seems to indicate this course, by the facility in acquiring languages which he has uniformly bestowed on savage man; and which is in truth but a branch of that great power of imitation with which he is universally endowed, the object of which has already been adverted to, and cannot be mistaken. But other strong arguments can also be advanced in favor of this course. The object is to raise the native, not to descend to his level, or apparently even below it, by imperfect, and therefore necessarily in many cases ludicrous, efforts to use his jargon. In learning English, also, many ideas, abstract and others, will be acquired insensibly, the opportunity for conveying which is lost by communicating through the medium of native tongues. A habitual, yet gradual, and as is proved by the success of Classical education among ourselves, a beneficial, exercise of the young native mind will be thus afforded,

maturing its reason. The intellectual field into which it will thus be introduced will be more extensive than any labor of translation can afford. It is more calculated to excite imagination, to stimulate ambition, and to wean from barbarous associations. It would be easy, but seems unnecessary, to pursue the argument farther.

In conclusion—the great principles of native treatment are thus—their *elevation in the social scale*, *intermixture with ourselves*, *beneficial employment*, *religious conversion*, *instruction in our language*, and thereby progressive *development of their mind and understanding*; nor, I am persuaded, will any benevolent and *hopeful* spirit fail with them if it keep these ends in view. In considering the subject, however, the importance of *hopefulness* in dealing with them is well worthy of this separate notice. In the beginning it will be necessary in many cases even to "hope against hope;" for in this, as in so many other fields of moral labor, the first steps are the really difficult ones, being often long without their reward. Yet if persevered in they are sure of ultimate success. We see in children, up to a certain point, the same vacillation, unsteadiness, perverseness, inaccessibility to intellectual impression, and dislike to the effort of learning, with which savages are habitually reproached; and we may be assured that the same patient, persevering, parental, and *inventive* zeal which overcomes these qualities in the one, will not fail eventually to overcome them in the other also.

The substance, in whole or in part, of the preceding paper having been communicated to some private and other friends, the following extracts from letters received

in reference to it, seem also interesting. With one exexception I have withheld the names of the writers, which at a distance would convey little information. But the authorities for the several facts are indisputable,—and the sentiments speak for themselves :—

1.—I have so far entered into your views respecting the Aboriginal natives, as to authorise Captain Lonsdale to employ them in the constabulary. I am inclined to think very well of the mode of management you propose.

RICHARD BOURKE.

2.—It would give me real pleasure to see such an experiment as you propose tried among the black population. It is the most plausible that has ever met my eye, and its success would bring everlasting blessings on the head of its projector. Even were its appearance less promising, I think, that regarded as an experiment only, it ought to be tried. It is a case in which the usual economical considerations ought to have no weight—in which a chance of success ought to justify any expenditure of means. Obtaining, as we do, from the lands of their country hundreds of thousands per annum, a tithe of this revenue is the least that ought to be spent for the benefit of its Aboriginal inhabitants. Success ought, of course, to be the end, so far as to induce choice of the probable means; but even despair of success ought not to excuse us from trying the best, and satisfying, by the effort at least, some part of our national responsibility. No one can be entitled to say that the money is squandered, who is not prepared to

shew that it could have been better bestowed *on the natives*.

But I agree fully with you, indeed it was a principle already firmly established with me, that little permanent good can be done with the natives, unless they can be induced to enter in some way into our service, and form, in this way, their own chance for civilization. By setting an example of this mutual advantage in your proposed engagement of the natives by the Government, the way may be prepared for introducing generally between them and Europeans the relation of servant and master; and if a benevolent feeling towards them can be cultivated, in connection with this relationship, it will be of infinitely more value than any scheme depending on benevolence, unaided by self-interest. In such a scheme you can only engage a few high-minded, self-sacrificing devotees; in the other case you receive the co-operation of the whole mass of good sort of men. It seems to me that the main business of a wise and good statesman is to discover, on the chart of human life, the lines in which public and private interest coincide; and to guide every thing into these directions in which virtue may find her sails filled as it were by a trade wind. I believe, that in compassion to human infirmity, these trade winds are far more numerous on the moral globe than we are at present aware; and I trust that under the influence of more enlightened legislation, the advantage of them, hitherto too often both neglected and frustrated by Governments, will be, more frequently felt.

3.—I beg leave to return you herewith your "Observations on the treatment of Aborigines in new

Colonies," with many thanks for the loan of them. In reading that portion of the remarks which speaks of enlisting natives, I was at once reminded of its effects at Sierra Leone, and other places on the western coast of Africa. A black recruiting sergeant goes into the "*Liberated African Yard*," and by means of an interpreter explains to those emancipated negroes the nature of military employment, and at the same time offers to take with him such as express a desire to enter the service. These men in course of time get married, and become as much, or even more attached to the Europeans than they were before to their own rulers. At Sierra Leone, however, they labor under this disadvantage, that the sergeants and corporals are black men, and though very *willing* are not *able* to give that instruction to the privates which a white sergeant would; and the officers take little interest or trouble in the matter. But at Cape Coast Castle there is a noble example of the success of your plan. There, the soldiers are all under a white sergeant, who owing to the absence of any superior officer, had, for a long time the entire management of the troops; and at the time that I arrived there, about August 1836, Captain Spinks, who had only been there one month, and who consequently could claim to himself no credit for the discipline and organization of the soldiers, had the troops out two or three separate times for the kind purpose of gratifying my curiosity. The movements they went through were highly creditable both to themselves and their sergeant; *and I was much struck with the attachment they all seemed to feel towards him.*

One more fact I may mention is, that on Sundays, when the troops go to church, nearly all their wives

and families go also, and sit in a place set apart for them; and although two-thirds of these poor creatures do not understand one word of the service, they make a point of attending regularly, with no other apparent object than that of shewing their respect and attachment to the Europeans. I may also add, that many of these soldiers are from the country of the Ashantees, whose name is so well known from their hostility to Europeans; and to this enlisting of them in a great measure are attributed the harmony and amity which now prevail between the two parties. The European merchants go up to the great town of Ashantee with as little danger as they would go from any one town in England to another; and the Ashantees feel equal security in coming down to Cape Coast Castle unarmed, only carrying in their hands a staff, with a silver or gold knob, according to their rank, to shew that they are Ashantees.

4.—I have perused with much attention your excellent observations on the treatment of the Aborigines in New South Wales, and can state an instance within my knowledge of the good effects arising from converting Negroes, quite as ignorant as the natives of New Holland, into soldiers.

Immediately after the capture of the Mauritius, a number of slave-vessels were taken by our cruisers. The slaves thus liberated, together with some others, were embodied in a regiment called the Bourbon regiment. Having been brought from different parts of Africa, they were classed as far as practicable, and officered from the European troops with white serjeants, but I think corporals selected from themselves.

When first organized they were extremely ignorant, unaccustomed to clothing, and for some time the military uniform proved irksome; but in an incredibly short period they acquired the language of the Colony, and became very efficient and useful troops; they were well-behaved, sober, obedient, and strongly attached to their officers, to whom they looked more as friends and protectors. A great number were married to women of their own countries captured at the same time, and had fine families. Some of the earliest years of my life were spent with these men, and I shall ever recollect with pleasure their generally mild and good conduct, being free from many of the vices which beset the European troops in that climate.

Had the regiment continued in the Mauritius, to which the men were accustomed, the results would have continued favorable; but at the peace of 1814 it was ordered to the West Indies, the men to be there drafted over to the 1st West India regiment, and the officers to be placed on half-pay. This step at once separated upwards of half the men from their families; (a limited number only being allowed to accompany the regiment). Their old officers who knew their manners, language, &c., were removed from them; and this, joined to change of climate, brought on sickness and despondency, and in a few months I saw an immense number carried to their graves in Barbadoes.

On revisiting the West Indies nine years afterwards a very few only survived of the whole regiment; but those in Barbadoes came immediatetely, bringing their wives and children, to see my father, who had been one of their old officers. They appeared delighted to see

him again, and made many enquiries after all the other officers.

With reference to your views as applicable to the Aborigines of New South Wales, I can only add my humble opinion that they would be found highly successful, and much more likely to be permanently beneficial than the mode adopted with the Bourbon regiment, although in that case the results bear out your opinions to the fullest extent. The men soon liked the service, and their good conduct attached the officers to them.

5.—I return your Paper upon the Civilization of the Australian Blacks, which I have read with much gratification and attention.

Having, during my residence in New South Wales, mingled a good deal with the Aborigines, and watched their dispositions, habits, and character, I am enabled to form a judgment, as to the quantum of success likely to attend the establishment of the scheme proposed in your document. And I have no hesitation in declaring my conviction, that if the plan devised by you were to be put into operation, under the management of a man possessing the mere qualifications of temper and judgment, and a very little knowledge of the character of savages, it would succeed; so far, at any rate, as relates to its main objects.

I will with submission just note one or two observations, that have occurred to me, as bearing out your theory.

1. I have observed, in my intercourse with the Australian natives, that though restless when attempted to be domesticated as farm-servants, &c., they are very

willing to undertake occupations, which involve any *journeyings*, and they make very trustworthy messengers, and often good stock-men and shepherds from this very circumstance. They have also been tried as constables, and found efficient. As a field police they would be invaluable, from their known sagacity in following the tracks of either man or beast.

2. I have been wandering with strange tribes occasionally for a day or two together; and have always remarked that, in their *wild* state, they look up to one or two leaders besides their chief, whose behests they seem implicitly to obey. I would therefore suggest that they should have their *corporals* selected from their own body, as an incentive to good conduct. Besides, the advantage will be thus obtained of sending out a commander, inured to hardships peculiar to the Colony, on any difficult expedition,—such as crossing gullies (wonderful chasms in New South Wales!), unknown streams, and a country unsupplied with provisions fit for Europeans. But they should, in all practicable cases, never be without the superior control of a white *serjeant*, for the reasons explained by you.

3. The whole of your theory, as to their settlement in one given spot, is just. But the establishing them in villages of *permanent occupation* is striking so deeply (I fear) at the root of their prejudices, and native habits, that it can only be effected by the nicest tact and most delicate regimen:—such as permitting periodical migrations within the year, to different stations, and the like. And their locomotive disposition might certainly be overcome, in the cases of the wives and families of those employed in the field, from the circumstance of their being left at present by the men

within their "Gunyah" or camp, when the latter are engaged in their hunting or fishing excursions. And this example would undoubtedly have a powerful influence over other blacks.

4. You are quite right as to their predilection for imitation, and have good grounds for building some portion of your theory thereupon. I have seen a black prouder of a razor, which enabled him to wear a smooth chin, "like a white fellow," than if he had been the possessor of half a dozen tomahawks.

5. We have a striking record of the success which may attend the amalgamation of conquerors with captives, strangers with denizens, in the ancient Romans; whom you have in another point alluded to.

6. In support of your proposition relating to the good effects of a distinguishing dress, one witnesses the avidity with which these very blacks seek after the brass chain and label that have been very generally given to their chiefs, and other marked men; and their consequent exertions to obtain them as a reward.

7. A capacity for acquiring our language, as well as the disposition for receiving instruction, is remarkable in the Australian black. That the brain of the *Van Diemen's Land* Aborigine even (who is placed lower in the scale of reasonable beings than the Australian) is not so dead to instruction, as European prejudice declares, the learning acquired by the one or two boys in the Orphan School here is an existing proof.

Lastly. There are many points very happily taken by you, and many which I have never seen adverted to before. And your entire scheme appears to me admirably calculated to avert the deterioration and loss of the poor Australian Black.

6.—I have read with very great interest your Paper on the treatment of the Australian Aborigines; and you may suppose that finding your views singularly corroborative of opinions in this respect, which I have for a long time past held myself, has not a little increased my gratification. About two years since circumstances occurred which directed my attention towards the state of the Aborigines of Port Philip, who were then first brought into immediate contact with Europeans; indeed, I had at that time almost determined to settle amongst them. And whilst endeavouring to form some feasible plan for the prevention of those melancholy results which have almost invariably followed our Colonisation hitherto, it was natural that a variety of schemes should in succession present themselves to my mind.

Several gentlemen with whom I was connected agreed to purchase an extensive tract of country from the natives, by a treaty based upon a recognition of their right to dispose of their interest in the ceded land; and in pursuance of this plan various admirable measures, intended for the protection and gradual civilization of the Aborigines, were suggested, and on the point of being carried into operation, when the Sydney Government thinking the measure an encroachment upon the rights of the Crown considered it necessary to assert them by taking the Settlement, even then formed, under its protection; and many of the projected measures were consequently delayed, pending the decision of the Home Government.

So much good feeling had, however, in this short time been evinced, and from the nature of the whole proceeding so many favorable auspices attended the

scheme, that I cannot doubt but that had the contemplated measures been fully carried out, a singular exception to the records of English colonization would at this moment have presented itself at Port Philip. I had, however, many opportunities of ascertaining the habits and characters of the natives; and a firm persuasion arose in my mind, that by consulting their dispositions, much, very much, might be accomplished for them. A visit which under very distressing circumstances I made, at this time, to Port Philip, brought me at length into immediate contact with them, and afforded me full opportunity of closely observing their peculiar temperament and habits. At once, I felt convinced that whatever steps were taken for their civilization, to be really beneficial and permanent, must be adapted to their tastes and Aboriginal character. Again I watched them attentively to this end, and the result was, a settled conviction, that such a plan might be adopted as, by keeping this principle in view, would accomplish the desired object.

I did not indeed, with you, think of making them at once Soldiers. The plan which struck me might, however, have led to this. I would have taken pains to make them fully understand that it was the desire of the Government to engage a certain number of them at once, as a body of police to assist in preserving order, in apprehending delinquents, and generally in protecting both their own people and the settlers. As many of them as entered into this engagement, (and it should have been for a fixed period), I would have placed under the direction of carefully selected white leaders, in companies of not more than twenty men each. They should have received food for themselves

and families in certain proportions, clothing, and at the head-quarters of each party simple huts; and small gardens should have been prepared for each individual, or family, under the direction of some intelligent person who would also have been their instructor. Dressed in a white frock and trowsers, with a red woollen cap, they might at once have commenced their duty. It should have consisted in proceeding according to orders from station to station of the settlers in a circuit of about (say) sixty miles, so as to have enabled them to visit their homes at short intervals of time. Provisions for them might have been stored at the stock-runs of the settlers, wherever a responsible person was in residence; and at these places they would have received their rations. During their marches the men might be allowed to hunt, as opportunity occurred; but they would of course be under the controul of a leader, who would be fully instructed as to the extent of his duty and proceedings, and direct the march accordingly.

Upon their return to head-quarters, where their wives and children would have remained, their route, countersigned at each halting-place by the settler there, would have been inspected, the party mustered, and carefully examined as to their conduct and appearance, and a record kept, with a view to some prospective advantages, or advancement.

Gradually, a more rigid discipline might have been adopted, and their training have been carried to a greater extent.

But the advantages of such a plan, as a preliminary step to your military one, even should this afterwards be required, would, I think, be the following:—

1. The employment would be more in accordance with their present habits and erratic disposition.

2. It would be less compulsory in appearance, and holding out the (to a savage) tempting bait of a certain supply of food, and warmth, and shelter, without laborious or unvarying toil, it would be more readily embraced.

3. The opportunities for hunting on fresh grounds would form no inconsiderable attraction to men whose main occupation it has been from infancy.

4. But still the engagement being for a fixed term, a just claim upon them would be secured to the Government for the punctual discharge of enjoined duties.

5. This controul would gradually affect the habits of the savage; a mild but firm discipline would make him less impatient of restraint, and enable him to fall in more imperceptibly with the usages and manners of civilized nations.

6. They would be secured, together with their wives, from the cruel oppressions of unprincipled white men.

7. In return they would afford the most efficient protection to settlers. The dreaded evil would be directed for good, since an elevation of condition would from the very nature of the employment make the savage interested in preserving order.

8. The difficulty usually experienced in attempting to collect the children for instruction, and especially of inducing the fathers to part from their families, would be obviated; and one of the best results would be found in the amelioration of the condition of the women, than which nothing can by any possibility be

more degraded than at present. I have scarcely ever seen dogs treated more brutally than are these women.

9. The women and children thus collected would of course be under instruction and training, and become powerful auxiliaries in this good work. I cannot help imagining the return of the savage from his expeditions under such circumstances, as contrasted with the scenes of misery with which they are at present familiar, occasioned by the inroads made by other tribes during the absence of the males, for the purpose of carrying off their females.

These are among the benefits which I feel assured some such plan would secure. It will indeed gratify me, if you succeed in directing general attention to the subject. It is high time that the voice of humanity and justice should be heard above the clamours of tyranny, or the scoffings of avarice; and it will be no trifling reward, if, by promoting inquiry, you awaken sympathy for a degraded but still calumniated race.*

* I have great pleasure in publishing this letter, though it appears on some points to differ from me. In principle it is precisely the same; and in detail it varies merely in the point at which the natives should be taken up. In the case of those of Port Philip the writer seems to think that they could not be immediately made soldiers; and though I doubt this, yet as he has seen more of them than I have, he ought to know them better. But however we may begin, either in this or any other case, on principle I am persuaded that the more perfect we can by any means make the organization of natives thus dealt with, (so long as it is not quite unsuitable for them) the better,—for it will draw them the more above their original habits and associations, and elevate them the more towards ourselves. The zeal, spirit, order, *esprit de corps*, of a well-dressed military body, will exceed those of a mere *garde rurale*, as those of a soldier do those of a militia-man; and they will produce civilizing effects I think, both on themselves and their countrymen, in the like proportion.—A. M.

APPENDIX.

(1.)

A Return, shewing the number of Convictions before the Supreme
1824 to 1835, both inclusive. Compiled from

Crimes against the Person.	1824	1825	1826	1827	1828	1829	1830	1831	1832	1833	1834	1835
Absconding *	..	1	..	..	..	..	2	..	..	..	..	..
Assault	3	13	3	6	1	1	8	30	5	8	7	12
Assault on the High Seas	..	..	..	1	..	..	..	..	..	..	..	..
Assault on officers	1	..	..	..	..	..	..	..	..	2	..	4
Assault with intent to rob	..	..	..	..	..	..	..	..	..	2	..	1
Assault with intent to ravish	1	..	..	..	..	..	3	1	1	3	3	4
Assault with intent to commit sodomy	..	..	..	..	..	..	..	..	1	1	1	..
Assaulting children under the age of ten with intent, &c.	..	..	..	1	..	..	..	..	..	..	..	..
Attempting to commit beastiality	..	..	..	..	..	..	..	..	1	..	..	..
Beastiality	..	..	..	..	..	..	..	..	1	1	..	..
Carnally knowing children under twelve years of age	..	..	..	2	..	..	3	1	2	1	..	1
Challenging to fight	1	..	..	..	..	..	..	..	..	..	..	..
Conveying challenge to fight	1	..	..	..	..	..	..	..	..	..	1	..
Feloniously and illegally at large	..	..	..	..	..	5	2	12	17	..	3	..
Highway robbery	1	..	..	1	..	1	5	1	..	..	..	..
Infanticide	..	..	..	..	..	..	1	..	..	..	..	1
Insubordination	..	..	..	..	..	..	..	..	..	..	..	2
Libel	10	2	2	1	..	..	..	..	1	1	1	4
Manslaughter	3	..	1	..	1	1	1	..	1	1	1	1
Misprision of felony	..	..	..	..	1	..	..	..	..	..	..	..
Murder	16	5	12	10	4	3	10	..	4	..	3	3
Perjury	..	..	1	..	..	..	3	1	4	..	3	..
Rape	1	..	..	1	1	..	2	1	..	..	..	..
Robbery	3	9	13	5	4	12	..	1	3	7	2	..
Shooting with intent to kill	1	..	1	2	1	..	..	1	7	1	2	..
Stabbing and cutting, and striking and wounding with intent to kill	..	..	1	..	..	1	3	1	5	4	7	5
Unnatural crime	..	..	..	..	1	..	2	..	..	..	..	..
Not particularized	..	..	..	..	..	..	..	..	..	..	1	1
Totals	42	30	34	30	14	24	45	50	53	22	35	39

* Now disposed of exclusively by the Police Courts.

(1.)

Court and Courts of Quarter Session in Van Diemen's Land, from Official Records in the Colonial Secretary's Office.

Crimes against Property.	1824	1825	1826	1827	1828	1829	1830	1831	1832	1833	1834	1835
Arson	..	..	4	..	1	..	1	..	1	..	..	..
Burglary	21	20	4	4	3	15	10	2	5	13	6	5
Breaking and entering building within Curtelage	..	..	..	..	..	..	2	..	..	..	1	2
Cattle-stealing	..	1	2	2	2	11	3	5	3	15	12	12
Coining	..	..	..	..	..	..	..	..	..	..	2	..
Cheating and defrauding	1	2	..	..	..	..	..	1	..	..	..	1
Deceit and fraud	..	2	..	..	..	..	4	2	5	6	..	2
Embezzlement	..	1	..	1	..	..	2	2	14	10	11	9
Felony	..	2	..	..	..	..	..	..	..	..	2	..
Forgery	4	2	3	2	..	..	1	6	2	1	4	2
Feloniously shooting at and killing a pig	..	..	..	..	..	..	1	..	..	..	..	..
Housebreaking	3	4	3	3	1	5	8	1	9	4	3	2
Horse-stealing	..	..	5	1	..	..	..	1	1	2	2	..
Killing cattle with intent to steal the carcase	2	..	..	..	..	..	..	..	..	..	1	1
Killing sheep with same intent	..	..	..	..	..	..	..	..	..	..	..	7
Larceny	17	82	53	71	61	78	112	99	121	197	325	182
Larceny from the person	..	1	..	2	1	6	3	11	6	6	5	..
Larceny by servant	..	..	..	..	..	..	2	15	27	22	22	13
Maiming cattle	..	..	..	..	..	..	4	..	1	..	3	..
Maliciously killing cattle	..	..	..	..	..	..	..	..	..	..	..	1
Obtaining goods under false pretences	..	2	1	1	2	1	..	..	3	3	1	1
Offering, disposing of, and putting away forged promissory notes	2	1	..	..	..	..	..	..	..	..	4	..
Privately stealing in shop, &c.	6	2	..	..	..	..	..	..	..	..	..	..
Piracy	..	..	..	..	..	..	..	..	1	..	..	..
Receiving stolen goods	..	2	1	11	1	6	6	21	6	15	50	42
Ditto, feloniously	5	5	3	9	3	13	16	3	4	41	41	17
Stealing in dwelling-house	5	5	27	22	6	11	2	2	7	6	3	1
Ditto, and putting in fear	12	5	3	..	1	5	5	..	21	14	8	9
Sheep-stealing	4	12	16	5	6	16	6	1	11	10	18	8
Uttering and publishing forged promissory notes, &c.	..	1	..	..	..	..	..	1	1	3	6	5
Not particularized	..	..	..	..	..	..	..	..	..	..	68	20
Totals	82	132	125	134	88	167	188	173	249	341	571	342

(2.)

NOTE TO NOTE, P. V. (PREFACE.)

Many passages might be quoted from Dr. Channing's works, to the effect referred to as above; but the following is among the most striking :—

"It is sometimes said that government is intended for the public, for the community, not for the individual. The idea of a national interest prevails in the minds of statesmen, and to this it is thought that the individual may be sacrificed. But I would maintain, that the individual is not made for the state, so much as the state for the individual. A man is not created for political relations as his highest end, but for indefinite spiritual progress, and is placed in political relations as the means of his progress. The human soul is greater, more sacred than the state, and must never be sacrificed to it. The human soul is to outlive all earthly institutions. The distinction of nations is to pass away. Thrones, which have stood for ages, are to meet the doom pronounced upon all man's works. But the individual mind survives, and the obscurest subject, if true to God, will rise to a power never wielded by earthly potentates.

"A human being is a member of the community, not as a limb is a member of the body, or as a wheel is a part of a machine, intended only to contribute to some general, joint result. He was created, not to be

merged in the whole, as a drop in the ocean, or as a particle of sand on the sea shore, and to aid only in composing a mass. He is an ultimate being, made for his own perfection as his highest end, made to maintain an individual existence, and to serve others *only as far as consists with his own virtue and progress.* Hitherto governments have tended greatly to obscure this importance of the individual, to depress him in his own eyes,—to give him the idea of an outward interest more important than the invisible soul, and of an outward authority more sacred than the voice of God in his own secret conscience. Rulers have called the private man the property of the state, meaning generally by the state themselves, and thus the many have been immolated to the few, and have even believed that this was their highest destination. These views cannot be too earnestly withstood. Nothing seems to me so needful as to give to the mind the consciousness, which governments have done so much to suppress, of its own separate worth. Let the individual feel, that, through his immortality, he may concentrate in his own being a greater good than that of nations. Let him feel that he is placed in the community, not to part with his individuality, or to become a tool, but that he should find a sphere for his various powers, and a preparation for immortal glory. To me, the progress of society consists in nothing more, than in bringing out the individual, in giving him a consciousness of his own being, and in quickening him to strengthen and elevate his own mind."—(*Miscellaneous Essays, &c.* London, 1834—pp. 38-40.)

I cannot resist either the temptation to add the fol-

lowing, as bearing, not only on this point, but also many others in this book. (See, in particular, pp. 63-5, 87-91, 126, and 133.)

"I have hitherto spoken of the general influence which Government *should exert on the moral interests of a people, by expressing reverence for the moral law in its whole policy and legislation.* It is also bound to exert a more particular and direct influence,—I refer to its duty of preventing and punishing crime. This is one of the chief ends of Government, but it has received as yet very little of the attention which it deserves. Government, indeed, has not been slow to punish crime, nor has society suffered for want of dungeons and gibbets. *But the prevention of crime and the reformation of the offender have nowhere taken rank among the first objects of legislation.* Penal codes, breathing vengeance, and too often written in blood, have been set in array against the violence of human passions, and the legislator's conscience has been satisfied with enacting these. Whether by shocking humanity, he has not multiplied offenders, is a question into which he would do wisely to inquire.

"On the means of preventing crime, I want time, and still more ability, to enlarge. I would only say, that this object should be kept in view through the whole of legislation. For this end, laws should be as few and as simple as may be; for an extensive and obscure code multiplies occasions of offence, and brings the citizen unnecessarily into collision with the state. Above all, let the laws bear broadly on their front the impress of justice and humanity, so that the moral sense of the community may become their sanction. Arbitrary and oppressive laws invite offence, and take

from disobedience the consciousness of guilt. It is even wise to abstain from laws, which, however wise and good in themselves, have the semblance of inequality, which find no response in the heart of the citizen, and will be evaded with little remorse. *The wisdom of legislation is especially seen in grafting laws on the conscience.* * * *

"Another means of preventing crime, is to punish it wisely; *and by wise punishment I mean that which aims to reform the offender.* I know that this end of punishment has been questioned by wise and good men. But what higher or more practicable end can be proposed? You say we must punish for example. But history shows that which is called exemplary punishment, cannot boast of great efficiency. *Crime thrives under severe penalties,* thrives on the blood of offenders. The frequent exhibition of such punishments, hardens a people's heart, and produces defiance and reaction in the guilty. Until recently, Government seems to have laboured to harden the criminal by throwing him into a crowd of offenders, into the putrid atmosphere of a common prison. Humanity rejoices in the reform, which, in this respect, is spreading through our country. To remove the convict from bad influences, is an essential step to his moral restoration. It is however but a step. To place him under the aid of good influence is equally important. * * * * * I know I shall be told of the failure of all efforts to reclaim criminals. They have not always failed. *And besides, has philanthropy, has genius, has the strength of humanity, been fairly and fervently put forth in this great concern? I find in the New Testament no class of human beings, whom charity is instructed to for-*

sake. I find no exception made by Him, who came to seek and save that which was lost. I must add, that the most hopeless subjects are not always to be found in prisons. That convicts are dreadfully corrupt, I know; but not more corrupt than some who walk at large, and who are not excluded from our kindness. The rich man who defrauds, is certainly as criminal as the poor man who steals. The rich man who drinks to excess, contracts deeper guilt than he, who sinks into this vice under the pressure of want. The young man who seduces innocence, deserves more richly the house of correction, than the unhappy female whom he allured into the path of destruction. *Still more, I cannot but remember how much the guilt of the convict results from the general corruption of Society. When I reflect how much of the responsibility for crimes rests on the state, how many of the offences, which are the most severely punished, are to be traced to neglected education, to early squalid want, to temptations and exposures which society could do much to relieve—I feel that a spirit of mercy should temper legislation; that we should not sever ourselves so widely from our fallen brethren; that we should recognize in them the countenance and claims of humanity; that we should strive to win them back to God."*

(3.)

NOTE TO NOTES, PP. 46 AND 114-16.

Since the Notes here referred to were printed, I have heard of other two cases of partnerships between released prisoners which have turned out particularly well; and my attention has been drawn to a description of it almost universal in these Colonies among Ticket-of-leave Men working for themselves, and from which the same inference may be drawn.

These men when they contract to do heavy work, as clearing, fencing, &c. almost always do it in parties of two, or more, being prompted to this in the first place by the hardness of the work, which a man cannot face alone, requiring always the assistance of "neighbours," or "mates," or "partners," as they are severally called, even in the minute details. These men, then, as I am assured, when engaged alone, for lighter work, are often found unsteady,—but are scarcely ever so while they are thus two, or more, together. They keep faith with each other, and will see a job through, without flinching, however hard. The social principle is here active, and beneficial;—but let us mark also the further results of the very same operations, and the lesson will become even the more striking from its absence. In a short period the work is concluded, and the partnership ceases. The men severally receive

their money; and the common tie being broken, (without time having been given to form habits of self-command, or other circumstances being at all combined so as to elevate their general views or character), they almost uniformly squander it in drinking and excess; and the fruits of previous combination are lost, like water from a pipe that is cut.

While printing I have also met with the following passage in Mr. Bulwer's *Monarchy of the Middle Classes*, descriptive of the organization of the French army in this respect. "The men of the same company, or troop, live together; they are expected to support, and assist each other, mutually; and the chief Subaltern of the party is instructed to keep up this fraternity of feeling, *by punishment*, as well as *recompense*. If one man conduct himself badly, it often happens that all his party comes in for a share of his punishment, as if the whole company were considered responsible for the conduct of every one of its members. If, on the contrary, a man acquire merited praise, either from some act of public service or private conduct, the company again comes in for a share of the eulogy to the individual, and is recompensed in a body."—(Vol. II., p. 230).

The discipline of the French army is extremely severe, its materials are not particularly good, and flogging is prohibited in it. Yet its order and organization are known to be excellent; and how is this result brought about? I do not say that it is this employment of the social principle that does it;—that were to ride such a hobby somewhat too hard. But I am persuaded that it is the natural consequence of the abolition of flogging, and other forms of direct coercive

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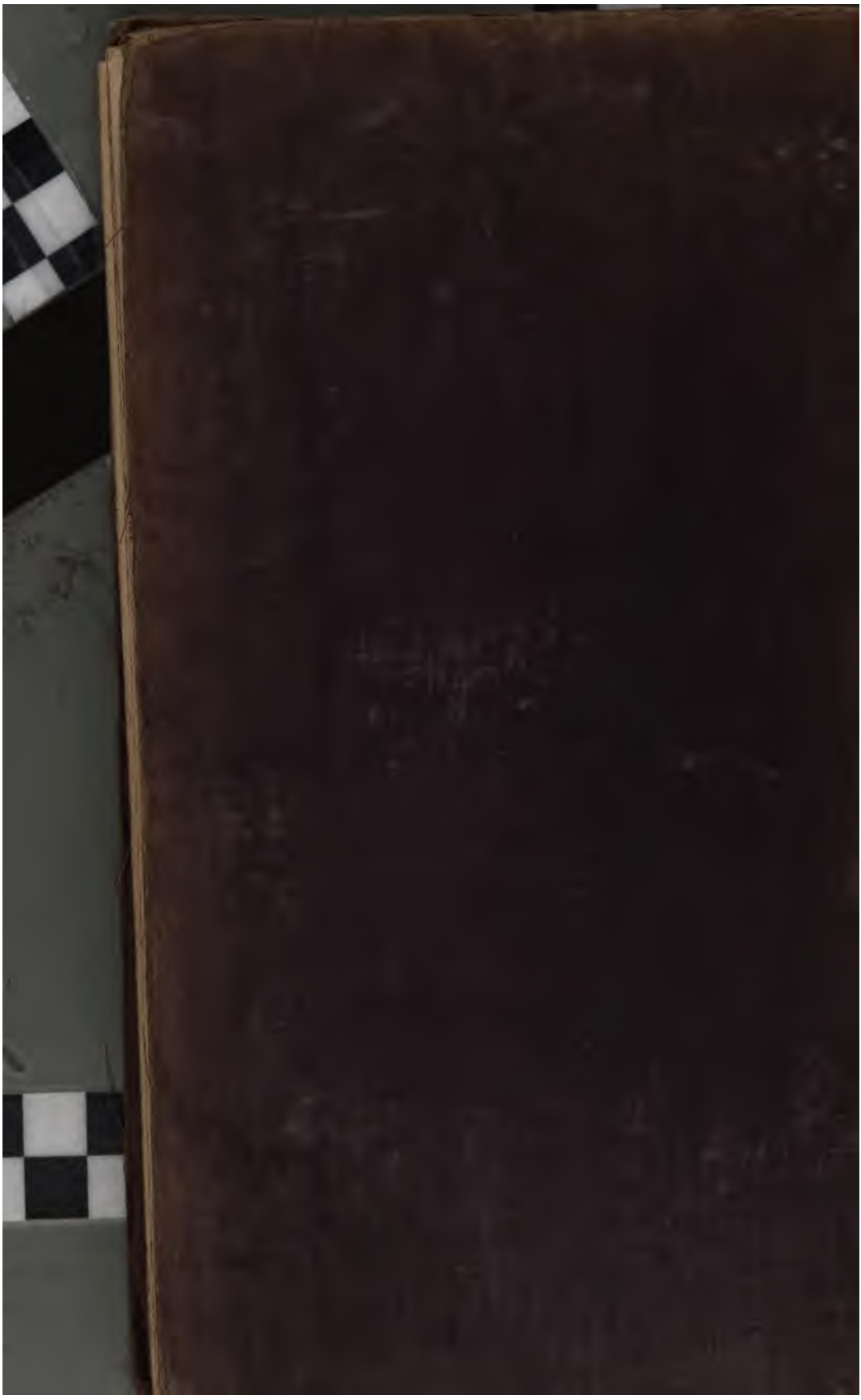
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